



INVITATION TO BID

Recyclable Materials Processing Services ITB No. 2013-14-9500-00-011

MANDATORY PRE- BID CONFERENCE

FRIDAY, JULY 18TH, 2014 @ 2:00PM

ADDITIONAL INFORMATION & CLARIFICATION DEADLINE

FRIDAY, JULY 25TH, 2014 @ 2:00PM

RESPONSE SUBMISSION DATE AND TIME

TUESDAY, AUGUST 12TH, 2014 @ 11:00AM

AT

**CITY OF HIALEAH
OFFICE OF THE CITY CLERK
CITY HALL, 3RD FLOOR
501 PALM AVENUE
HIALEAH, FL 33010 - 4719**

Each Bidder is solely responsible for ensuring that it submits its response to this Bid Solicitation at the Office of the City Clerk on or before the applicable deadline. The City of Hialeah will not be responsible for delays caused by the United States Postal Service or any other occurrence.

Copies of this ITB Document may be obtained by contacting Angel Ayala, the Acting Purchasing Director of the Purchasing Department, at AAyala@Hialeahfl.gov

CITY OF HIALEAH

ADVERTISEMENT
and
INVITATION TO BID

Sealed Bids in response to this Invitation To Bid ("ITB" or "Solicitation") for Recyclable Materials Processing Services will only be received by the City Clerk of the City of Hialeah, in the City Clerk's office on the 3rd Floor of City Hall (located at 501 Palm Avenue, Hialeah, Florida), **until 11:00 A.M., Tuesday, August 12, 2014**, at which time the submittals will be opened by the City Clerk in the 3rd Floor Conference Room in City Hall, when the Bidders' names will be announced and the Bids will be delivered to the Public Works Department for review and handling. There will be a **mandatory** Pre-Bid Conference in the 3rd Floor conference room in City Hall **at 2:00 P.M. on Friday, July 18, 2014. Each Bidder must attend the mandatory Pre-Bid Conference.** Each Bidder should bring a copy of this Solicitation to the conference because additional copies of this Solicitation will not be available. The deadline for submitting written questions, comments, and requests for clarification concerning this Solicitation shall be **2:00 P.M. on Friday, July 25, 2014.**

RECYCLABLE MATERIALS PROCESSING SERVICES
ITB NO. 2013/14-9500-00-011

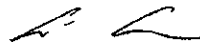
Affidavits, forms and the text of the Invitation to Bid may be obtained at the Purchasing Office, City Hall, 501 Palm Avenue, 4th Floor, Hialeah, Florida.

Each Bid shall be submitted in two (2) sealed envelopes. One sealed envelope shall contain the "Qualification Package" and the other sealed envelope shall contain the "Cost Package." The outside of each sealed envelope must clearly indicate the name and number of this ITB (Recyclable Materials Processing Services; ITB No. 2013-14-9500-00-011); the Bidder's name and address; and the name and telephone number of the Bidder's contact Person. Each envelope shall be clearly marked as either the "Qualification Package" or the "Cost Package." The two sealed envelopes may be placed in one package for delivery to the City, but the outside of the package must clearly indicate the name and number of this ITB, the Bidder's name and address, and the name and telephone number of the Bidder's contact Person.

A Bid may be withdrawn prior to the deadline for submitting Bids to the City under this ITB. Any Bid that is not withdrawn in time shall constitute an irrevocable offer to provide the services requested herein. The offer shall remain in effect for a period of one hundred eighty (180) days after the deadline for submitting the Bid.

The City reserves its right to: reject any or all Bids, with or without cause; waive minor irregularities with regard to the Bid requirements and the Bids received; and award the City's contract to the Bidder that is deemed to be responsible, responsive, and providing the best overall value to the City.

CITY OF HIALEAH, FLORIDA



Angel Ayala
Acting Purchasing Director

Advertisement Date:
July 1, 2014



The City of Hialeah, Florida (hereinafter referred to as the "City"), is hereby soliciting Bids from all qualified companies that wish to process, market, and sell the City's Program Materials (i.e., Recyclable Materials ("Recyclables") collected by the City). Any company ("Person") wishing to submit a Bid shall comply with the requirements contained in this Invitation to Bid ("ITB" or "Solicitation") for Recyclable Materials Processing Services (ITB No. 2013-14-9500-00-011).

Each Bid shall be submitted in two (2) separate sealed envelopes; one (1) envelope shall contain the "Qualification Package" and the other envelope shall contain the "Cost Package." The outside of each sealed envelope must clearly indicate the name and number of this ITB (Recyclable Materials Processing Services; ITB No. 2013-14-9500-00-001); the Bidder's name and address; and the name and telephone number of the Bidder's contact Person. Each envelope shall be marked as either the "Qualification Package" or the "Cost Package."

Each Bid shall be delivered to the City no later than the date and time specified below. Bids received after said date and time will not be considered and no time extensions will be granted. Each Bid shall be delivered to the City of Hialeah, Office of the City Clerk, Hialeah City Hall, 3rd floor, 501 Palm Avenue, Hialeah, FL 33010.

The City's schedule for this Solicitation is as follows:

Event	Date	Time
Advertisement Date:	July 1, 2014	
Mandatory Pre-Bid Conference:	July 18, 2014	2:00 PM
Last Date for Receipt of Written Questions:	July 25, 2014	2:00 PM
Deadline for Submittal of Bids:	August 12, 2014	11:00 AM
Evaluation of Responses:	August 26, 2014	
City Council Contract Approval Date:	September 9, 2014	
Notice to proceed:	October 1, 2014	

(The City reserves the right to delay or modify scheduled dates and will notify Bidders of all changes in scheduled dates.)

Copies of this Solicitation may be obtained from the Purchasing Department.

MANDATORY PRE-BID CONFERENCE

A **MANDATORY** Pre-Bid Conference will be held on the date and time specified above at Hialeah City Hall, 3rd floor, 501 Palm Avenue, Hialeah, FL 33010, in the City Council Chambers, to discuss the special conditions and requirements included in this Solicitation. Each Bidder must attend the Pre-Bid Conference. The City will reject any Bid submitted by a Person that did not attend the Pre-Bid Conference. Each potential Bidder should bring a copy of this Solicitation to the conference, because additional copies of this Solicitation will not be available.

ACCEPTANCE AND REJECTION OF BIDS

The City reserves its right to: reject any or all Bids, with or without cause; waive minor irregularities with regard to the Bid requirements and the Bids received; and award the City's contract to the Bidder that is deemed to be responsible, responsive, and providing the best overall value to the City.

Please be advised that this Solicitation is issued subject to the requirements in the City of Hialeah's Code of Ordinances. Also note that communications with the Mayor, City Council, and City Staff are restricted, as specified in Sections 6.5 and 6.18 of this Solicitation.

We look forward to your active participation in this Solicitation.

Sincerely,

A handwritten signature in cursive script that reads "Angel Ayala".

Angel Ayala,
Acting Purchasing Director

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Agreement for Processing Recyclable Materials

SECTION 1.0 DEFINITIONS

The capitalized words in this Invitation to Bid ("ITB") are defined in this Section 1.0 or they are defined in the "Agreement for Processing Recyclable Materials," which is attached hereto in Section 7 of this ITB.

"Agreement" means the "Agreement For Processing Recyclable Materials," including all of the exhibits and amendments hereto.

"Average Market Value" or "AMV" means a market index used to determine the amount of revenue that will be paid by the Contractor to the City for the Program Materials delivered to the Designated Recycling Facility, based on the monthly values paid in the commodity market for Recyclables. The specific method for calculating the AMV is set forth in Section 6 of the Agreement.

"Award" means the acceptance of a Bid, offer, or proposal by the City Council of the City of Hialeah.

"Awarded Bidder" means the Bidder selected by the City to serve as the City's Contractor under the Agreement.

"Bidder" means the Person, company, entity or organization submitting a Bid in response to this Invitation to Bid.

"City" means, depending on the context, either (a) the geographic area contained within the municipal boundaries of the City of Hialeah, Florida or (b) the government of the City, acting through the City Council or its designees.

"Designated Processing Facility" means the facility designated in the Agreement where the Contractor will Process the City's Program Materials. The Designated Processing Facility may be the same as or different than the Designated Recycling Facility.

"Designated Recycling Facility" means the facility designated in the Agreement where the Contractor will receive and accept delivery of the City's Program Materials. The Designated Recycling Facility may be a materials recovery facility, a recovered materials processing facility, or a transfer station, as those terms are defined in Rule 62-701.200, Florida Administrative Code.

"Program Materials" means Recyclable Materials collected by or on behalf of the City and over which the City has control. Recyclable Materials include newspapers (including inserts), corrugated cardboard, mixed paper (including brown paper bags, magazines, phonebooks, junk mail, white and colored paper, shredded paper in a bag, and paperboard), aluminum cans, plastic containers and bottles marked with SPI codes 1-7, glass bottles and jars, tin and ferrous cans, polycoated cartons, and other materials designated as Program Materials by mutual agreement of the City and Contractor.

"Recyclable Materials" or "Recyclables" means those materials that are capable of being recycled and which would otherwise be Processed or disposed of as Solid Waste.

"Solicitation" means this Invitation to Bid ("ITB").

SECTION 2.0

SCOPE OF SERVICES

2.1 INTRODUCTION

The City of Hialeah ("City") has issued this Invitation to Bid ("ITB" or "Solicitation") because the City wishes to solicit competitive bids for the Processing, marketing, and sale of the Recyclable Materials collected by the City (i.e., "Program Material"). The Bidder selected by the City (i.e., "Awarded Bidder" or "Contractor") shall pay the City monthly for each Ton of Program Material that the City and/or its agents (e.g., Contract Haulers) deliver to the Bidder's Designated Recycling Facility.

The scope of services is set forth in the "Agreement for Processing Recyclable Materials" ("Agreement"), which is attached hereto in Section 7 of this ITB. The Agreement contains the specific terms and conditions that will govern the Contractor's work for the City. Each Bidder shall review the Agreement carefully and then base its Bid on the assumption that the Awarded Bidder will be required to execute the Agreement, as is, without changes. The City will reject any Bid that is conditional, or subject to exceptions or qualifications, or based on alternate contractual provisions.

Please note that the scope of services in this Solicitation does not include: (a) the collection of Recyclable Materials; (b) hauling Recyclable Materials from the City to the Designated Recycling Facility; or (c) any waste disposal services, except that the Contractor must arrange for the disposal of Rejects and Residue from the Contractor's Designated Processing Facility.

2.2 MINIMUM QUALIFICATIONS

To be eligible to respond to this Solicitation, the Bidder must submit all documents and information necessary to demonstrate that the Bidder has the resources and experience to provide the services required by the Agreement. Any Bidder that fails to satisfy the following minimum requirements may be deemed "NON-RESPONSIVE".

- 2.2.1 Each Bidder shall submit proof that the Bidder is a corporation or other business licensed to do business in the State of Florida and in good standing.
- 2.2.2 Each Bidder shall submit proof that it has experience Processing Recyclables, like the City's Program Materials, at the Designated Recycling Facility and the Designated Processing Facility, for a community with a population equal to or greater than 100,000.
- 2.2.3 Each Bidder must identify the name, location, and Processing capacity of the Designated Recycling Facility where the Bidder will receive the City's Program Materials. The facility must be fully permitted, and the facility must have been in commercial operation for at least six (6) months, when the Bidder submits its Bid to the City. The Bidder must verify that there

are no outstanding compliance issues concerning the facility, including but not limited to, notices of violation, consent orders, building code violations, or similar matters.

- 2.2.4 If the Bidder wants the City to deliver its Program Recyclables to a Transfer Station, the Bidder shall identify the name, location, and capacity of the facility where the City's Program Recyclables will be Processed for marketing.
- 2.2.5 Each Bidder shall identify the alternate facility or facilities, if any, that the Bidder will use if the Designated Recycling Facility or Designated Processing Facility is not operational or otherwise is unable to receive the City's Recyclables.
- 2.2.6 Each Bidder shall provide the City with the names of and contact information for at least three (3) cities or counties that have used the Bidder's services at the Designated Recycling Facility. The Bidder also shall provide the names of and contact information for at least three (3) cities or counties that have used the Bidder's Designated Processing Facility, if the Designated Processing Facility is different than the Designated Recycling Facility.
- 2.2.7 Each Bidder shall provide a description of the Designated Recycling Facility and the Designated Processing Facility (if different than the Designated Recycling Facility) that will be used to satisfy the requirements in the Agreement. At a minimum, the description shall identify: (a) the types of Recyclables that are separated and marketed at the facility; (b) the daily Processing capacity of each facility (i.e., the number of Tons that can be Processed); and (c) the number of Tons of Recyclables that currently are delivered to the Facility on a daily basis. The Bidder shall verify that the designated facilities have the capacity to receive and successfully Process all of the Program Materials that will be delivered by the City, in addition to the Recyclables that are delivered to the facilities by other people.
- 2.2.8 Each Bidder shall identify and provide a brief description of each case filed or pending on or after January 1, 2009, where: (a) a civil, criminal, administrative, bankruptcy, or other similar proceeding was filed against the Bidder and the proceeding arose from or was related to a dispute concerning the Bidder's rights, remedies or duties under a contract for the Processing, marketing, and/or sale of Recyclable Materials; (b) administrative fines, liquidated damages, or other penalties greater than \$10,000 were assessed or deducted from the Bidder's payments under a contract for the operation of a recycling facility or Processing facility in Florida; or (c) the Proposer was alleged to have violated an environmental law concerning the operation of a recycling facility or Processing facility in Florida.
- 2.2.9 Each Bidder shall provide information demonstrating its financial stability and strength. A Proposer should include copies of its most recent annual financial reports and audits. Financial reports should include a balance

sheet, an income statement, and a statement of cash flows. If the Proposer is a publicly traded company, a financial statement filed with the U.S. Securities and Exchange Commission will suffice. The Bidder shall demonstrate its ability to satisfy its financial commitments to the City under the Agreement.

2.2.10 Each Bidder shall provide a detailed description of the truck route that the Bidder believes should be used to determine the distance from the City centroid (i.e., the approximate center of the City) to the Designated Recycling Facility. For the purposes of this Solicitation only, the City centroid shall be deemed to be located at 1201 West 49th Street, Hialeah, Florida (25.866658, -80.306840). The proposed route shall use approved truck routes and unrestricted through routes to the greatest extent practicable. Bidder's description of the route shall identify any toll roads that will be used and the cost of each toll that will be paid on each toll road. Please note that the City reserves its right to reject the Bidder's proposed route and select a different route that is better suited for truck traffic.

2.2.11 The Bidder shall provide the Bidder's estimate of the roundtrip distance from the City centroid to the Designated Recycling Facility. The distance shall be determined by using Google Maps. The roundtrip distance shall be measured in miles and rounded to the nearest one-tenth (0.1) of a mile. The City reserves its right to independently determine the distance from the City centroid to the Designated Recycling Facility.

2.3 SPECIFIC REQUIREMENTS IN AGREEMENT

As noted above, the Agreement (attached hereto in Section 7) identifies the specific terms and conditions that the Bidder will be required to satisfy if the Bidder is selected by the City. Each Bidder should carefully review the Agreement before submitting a Bid.

The terms and conditions contained in this ITB shall govern the City's competitive procurement process under this Solicitation. However, when the City and the Award Bidder execute the Agreement, the parties shall be governed solely by the requirements in the Agreement.

2.4 SOLICITATION TIMETABLE

The following timetable should be used as a working guide for planning purposes. The City reserves the right to adjust this timetable, as the City deems necessary, during the course of this Solicitation process.

Event	Date	Time
Advertisement Date:	July 1, 2014	
Mandatory Pre-Bid Conference:	July 18, 2014	2:00 PM
Last Date for Receipt of Written Questions:	June 25, 2014	2:00 PM
Deadline for Submittal of Bids:	August 12, 2014	11:00 AM
Evaluation of Responses:	August 26, 2014	
City Council Contract Approval Date:	September 9, 2014	
Notice to proceed:	October 1, 2014	

2.5 **MANDATORY PRE-BID CONFERENCE**

A **MANDATORY** Pre-Bid Conference ("Conference") will be held on the date and time specified in the Solicitation Timetable (Section 2.4). The Conference will be held at the City of Hialeah's City Hall, 3rd floor, 501 Palm Avenue, Hialeah, FL 33010 in the City Council Chambers. The Conference will provide the City and potential Bidders with an opportunity to discuss the special conditions and requirements included in this Solicitation. Each Bidder must attend the Conference. The City will reject any Bid submitted by a Person that did not attend the Conference. Attendees are required to sign-in at the Conference. Attendees should bring this ITB to the Conference because additional copies of the ITB will not be available.

2.6 **BID CLARIFICATION AND INQUIRIES**

Any questions, suggestions, or clarifications concerning this Solicitation shall be submitted in writing by mail, facsimile, or e-mail to Mr. Angel Ayala, the City's Acting Purchasing Director, at 501 Palm Avenue (4th Floor), Hialeah, Florida 33010. Facsimile transmissions shall be directed to Mr. Ayala at (305) 883-5871; E-mails shall be directed to AAyala@Hialeahfl.gov.

The City will only respond to questions and suggestions submitted to the City in writing.

The ITB number and title shall be identified in all correspondence. Be sure to include the page and paragraph number of the ITB for each question to ensure that questions are responded to correctly. All questions must be received no later than the time and date specified in the Solicitation Timetable (Section 2.4). **NO QUESTIONS WILL BE ACCEPTED VERBALLY OR AFTER THE DEADLINE FOR SUBMITTING WRITTEN QUESTIONS.** The City's official responses to questions/clarifications will be sent to all Bidders in the form of an addendum.

Bidder(s) must clearly understand that the only official answers to their questions are the ones provided by the City in a written addendum to this ITB.

It is the Bidder's sole responsibility to ensure the Bidder receives all addenda.

END OF SECTION 2.0

SECTION 3.0 SPECIAL CONDITIONS

3.1 PURPOSE

The purpose of this ITB is to solicit qualifications and prices from all Persons that wish to provide the services requested in this Solicitation. This ITB provides interested Persons with general information concerning the procedures that will be used to select the Awarded Bidder (Contractor).

3.2 METHOD OF AWARD

The City plans to use a two-step process when evaluating Bids. First, each Bidder's Qualification Package will be opened and evaluated to determine whether the Bidder is qualified, responsive, and responsible. Pursuant to Section 2-811 of the City's Code, a responsible Bidder "means a person who has the capacity in all respects to fully perform the contract requirements and has the integrity and reliability that will ensure good faith performance." Under the City Code, a responsive Bidder "means a person who has submitted a bid or proposal that conforms in all material respects to the invitation to bid. . . ."

The City reserves its right to take all steps it deems necessary to evaluate the Bidder's qualifications. Among other things, the City may make additional inquiries of the Bidder and any other Person, request additional information, obtain credit reports, and/or contact other local governments that have entered into contracts with the Bidder. A Bidder that does not provide the information requested by the City may be disqualified from this Solicitation. If a Bidder is deemed unqualified (i.e., not responsible) or not responsive, their Cost Proposal will not be opened and their Bid shall not be considered.

If the City concludes that a Bidder is qualified, responsible, and responsive, the Bidder's Cost Package will be opened and evaluated. The City plans to award its Agreement to the responsible, responsive Bidder that offers to pay the highest net revenue for the City's Program Materials. The City shall have the exclusive authority to determine how the City will calculate the net revenue for each Bid.

The net revenue will be calculated by determining the annual revenue that will be paid to the City by the Bidder and then subtracting the annual cost that will be incurred by the City when the City transports its Program Materials to the Bidder's Designated Recycling Facility. Stated differently, the net revenue will be calculated by using the following formula:

$$NR = AR - TC$$

In this formula,

NR is the net revenue

AR is the annual revenue

TC is the transportation cost

The annual revenue (AR) will be calculated by multiplying (a) the AMV of the City's Program Materials by (b) the percentage of the AMV that the Bidder proposes to pay to the City by (c) the number of Tons of Program Materials that the City estimates it will deliver to the Designated Recycling Facility per year. For the purposes of this Solicitation only, the AMV shall be deemed to be Eighty Four Dollars Seventy Six Cents (\$84.76) per Ton, based on the results of the City's May 2014 composition study, which is discussed below. For the purposes of this Solicitation only, the City assumes that it will deliver 8 thousand (Eight) Tons of Recyclable Materials to the Designated Recycling Facility per year.

The City shall use the following methodology to calculate the City's estimated transportation cost (TC) First, the City shall determine, in its sole discretion, the most appropriate truck route from the City centroid to the Bidder's Designated Recycling Facility. The route shall follow approved truck routes and through routes to the greatest extent deemed practicable by the City. Second, the City shall determine the roundtrip distance from the City centroid to the Designated Recycling Facility, following the route selected by the City. The roundtrip distance shall be measured in miles, rounded to the nearest one-tenth of a mile (0.1), using Google Maps. For the purposes of this Solicitation only, the approximate location of the City centroid shall be deemed to be 1201 West 49th Street, Hialeah, Florida (25.866658, -80.306840). Third, the roundtrip distance to the Designated Recycling Facility will be multiplied by (a) the number of roundtrips the City will make each year to deliver the City's Program Materials to the Designated Recycling Facility and (b) the cost that the City will incur for each mile that the City must transport its Program Materials. For the purposes of this Solicitation only, the City estimates that it will make 882 (Eight Hundred Eighty Two) roundtrips to deliver the City's Program Materials to the Designated Recycling Facility each year. The City also estimates that it will spend Twelve Dollars and Twenty Five Cents (\$12.25) per ton to transport its Program Materials to the Designated Recycling Facility.

In May 2014, the City conducted a composition study concerning the City's Program Materials. The composition study identified the different components in the City's Program Materials (e.g., newspaper, mixed paper, aluminum cans, etc.), and it identified the percentage of the Program Materials that are comprised of each of the different types of Recyclable Materials. The results of the composition study are presented in Exhibit 2 (Initial Composition of Program Materials and Calculation of Average Market Value), which is attached to the Agreement, and in the table below. The study indicates that the AMV of the City's Program Materials is Eighty-Four Dollars and Seventy-Six Cents (\$84.76) per Ton, based on the values reported in RecyclingMarkets.net in April 2014.

INITIAL COMPOSITION OF PROGRAM MATERIALS AND CALCULATION OF AVERAGE MARKET VALUE

Material	Index Description	Index Value (Apr '14)	Index Value Per/Ton	Material %	Average Market Value (\$/Ton)
Newspaper	PS 8 baled, F.O.B. seller's dock	\$ 70.00	\$ 70.00	7.6%	\$5.32
Corrugated containers	PS II baled, F.O.B. seller's dock	\$ 120.00	\$ 120.00	10.8%	\$12.96
Mixed paper	PS I baled, F.O.B. seller's dock	\$ 52.50	\$ 52.50	12.3%	\$6.46
Steel cans	\$/Ton, sorted, baled and delivered	\$ 115.00	\$ 115.00	3.6%	\$4.14
Aluminum cans	Cents/lb, sorted, baled and delivered	\$ 74.50	\$1,490.00	0.5%	\$7.45
Plastics #3-7	Commingled (#3-7, cents/lb, baled and picked up)	\$ 1.25	\$ 25.00	2.8%	\$0.70
PET	Cents/lb, baled and picked up	\$ 20.75	\$ 415.00	3.9%	\$16.19
Natural HDPE	Cents/lb, baled and picked up	\$ 42.00	\$ 840.00	2.3%	\$19.32
Colored HDPE	Cents/lb, baled and picked up	\$ 31.50	\$ 630.00	2.3%	\$14.49
Glass (3 Mix)	\$/Ton, delivered	\$ (10.00)	\$ (10.00)	22.6%	(\$2.26)
Polycoated Cartons	None at this time	-	-	0.4%	\$0.00
Contamination	N/A	-	-	30.9%	\$0.00
Total:				100%	\$84.76

Note: The index values for April 2014 are used for estimation purposes only, and are subject to fluctuation as determined by Secondary Fibers and Material Pricing found on RecyclingMarkets.net. Prices to be used are the first published Regional Average prices for the Southeast USA in the month for which payment is being made. No market index currently exists for polycoated cartons in RecyclingMarkets.net; therefore, the value is set at zero (\$0.00). When a market index for polycoated cartons or aseptic containers becomes available on RecyclingMarkets.net, it will be utilized.

3.3 INSURANCE

Each Bidder must provide proof of its ability to obtain insurance complying with the requirements specified in Section 11 of the Agreement. At a minimum, each Proposer shall execute Form A-4 (Insurance Check List) and submit an "Information Only Accord Certificate" demonstrating the Bidder's ability to obtain the required level of insurance. Certificates of insurance complying with the requirements in the Agreement do not need to be submitted with the Bid; however, certificates of insurance will be required before the City executes the Agreement with the Awarded Bidder.

The Awarded Bidder must submit, prior to signing the Agreement, Certificates of Insurance naming the City of Hialeah as an additional insured for the Commercial General Liability and Automobile Liability insurance required by the Agreement.

The Awarded Bidder shall ensure that all required insurance coverage remains current and in effect throughout the term of the Agreement.

All insurers must be lawfully admitted to conduct business within the State of Florida and they must satisfy the criteria in Section 11 of the Agreement. Required insurance coverage must be approved by the City's Risk Management officer before the City executes the Agreement with the Awarded Bidder. Coverage limits shall equal or exceed the amount(s) required by the Agreement and shall not be reduced for claims made for other projects undertaken by the Awarded Bidder.

3.4 INDEMNIFICATION OF CITY

The Contractor shall indemnify the City in compliance with Section 12 of the Agreement.

3.5 BID/PERFORMANCE/PAYMENT BOND

A Bid Bond is not required under this Solicitation. The requirements for the Performance Bond (\$50,000) are contained in Section 10 of the Agreement.

3.6 CONFLICTS OF INTEREST

The City's conflict of interest guidelines are contained in Article IV of the City Code, as amended, and the guidelines shall apply to any Bid submitted in response to this Solicitation. Each Bidder, City employee, and Council member also must comply with conflict of interest and other requirements set forth in Section 2-11.1 (Conflict of Interest and Code of Ethics Ordinance) of the Miami-Dade County Code of Ordinances. Bidders should be aware that, if awarded a contract, no person under the City's employ who presently exercises any functions or responsibilities on behalf of the City in connection with this Bid may have any personal financial interest, directly or indirectly, with any contractor or vendor providing professional services on work assigned to the Bidder, except as fully disclosed and approved by the City. The Bidder shall further be aware that no person having such an interest shall be employed by the Bidder to work on this project.

3.7 BID CONDITIONS

3.7.1 THE CITY'S RIGHTS

In its sole and absolute discretion, the City may: reject any or all Bids; re-advertise this ITB; postpone or cancel this ITB process at any time; or waive any minor irregularities in this ITB or in any Bid received by the City.

The City shall have the sole and absolute discretion to determine: the criteria and processes by which Bids will be evaluated; the manner and extent to which the City will investigate a Bidder's qualifications; whether a Bidder is qualified; whether a Bid is responsive to this ITB; the net economic value to the City of any Bid; whether a Bidder will be awarded

the Agreement; and whether any award will be made as a result of this ITB.

In no event will any successful challenger of these determinations or decisions be automatically entitled to an Award of the Agreement.

The submittal of a Bid shall constitute an offer by the Bidder to provide the services described in this ITB, subject to and in compliance with the requirements in the Agreement.

3.7.2 RULES, REGULATIONS, AND REQUIREMENTS

Each Bidder shall comply with all Applicable Law, including but not limited to all local, state, and federal laws, ordinances, and regulations applicable to this ITB and the services required in the Agreement.

3.7.3 CHANGE OF BID

Any Bidder that wishes to change his/her Bid must do so in writing prior to the deadline for submitting Bids. Any request for changes to a Bid must be delivered to the City prior to the deadline for submitting Bids. The Bidder's name, the title of this Solicitation, and this Solicitation number shall appear on the document requesting a change to the Bid.

3.7.4 WITHDRAWAL OF BID

A Bid may be withdrawn prior to the deadline for submitting Bids to the City under this ITB. Any Bid that is not withdrawn in time shall constitute an irrevocable offer to provide the services requested herein. The offer shall remain in effect for the period of one hundred eighty (180) days after the deadline for submitting the Bid.

3.7.5 CONTRACT AWARD

If the City decides to award its work to a Bidder, the Bidder shall be required to sign the Agreement that is attached to this Solicitation within thirty (30) days after the City awards the work.

3.8 VENDOR REGISTRATION

The Awarded Bidder shall register with the City as a vendor and shall remain registered with the City throughout the term of the Agreement. By submitting a Bid in response to this Solicitation, the Bidder confirms that it is knowledgeable about and will comply with the City's procurement procedures and the City's Code of Ordinances.

3.9 REVIEW OF BIDS

The City will not grant any request for copies of the Bids and will not allow anyone to review the Bids until thirty (30) days after the Bids are received by the City or the City announces it will Award the work to an Awarded Bidder.

3.10 REFERENCES AND SUB-CONTRACTORS

Pursuant to Section 2.2, above, each Bid must be accompanied by a list of three (3) references who will confirm that the Bidder has performed similar work for

other communities. Each Bid shall include the name of the reference community, the name of a contact person in the reference community, and the telephone number for the contact person. **NO BID WILL BE CONSIDERED WITHOUT THIS LIST.** It is the responsibility of the Bidder to confirm that the contact person will be responsive to the City's inquiries. The Bidder's references should be identified in Form A-8 ("Bidder's Qualifications and References"), which is attached to this ITB.

Each Bidder also shall complete Form A-9 ("Bidder's Subcontractors") and submit the form in the Bidder's Qualification Package.

3.11 COMPLETE SERVICES REQUIRED

The Agreement describes the services required by the City. However, the City's failure to specifically list any item of work in the Agreement shall not relieve the Awarded Bidder (Contractor) of its responsibility to furnish all of the services and perform all of the work required to complete all of the tasks identified in the Agreement.

3.12 BID SUBMITTAL/ADDENDUMS

Each Bid submitted to the City shall include all of the completed Bid forms and all of the required information, as indicated on the Bid forms. Bids will be considered "Non-Responsive" if the required information is not submitted with the Bid package.

Before submitting a Bid, each Bidder shall make all investigations and examinations necessary to determine whether any addenda to this ITB were issued by the Purchasing Department.

3.13 GROUND FOR REJECTING BIDS

Bids found to be non-responsive shall not be considered. A Bid may be found to be non-responsive because, among other things, the Bidder: failed to utilize or complete the required forms; failed to provide additional information requested by the City; provided incomplete, indefinite, or ambiguous responses; failed to comply with the applicable deadlines; or provided improper or undated signatures. The City's grounds for rejecting Bids include, but are not limited to, evidence of: collusion among Bidders; a lack of experience, expertise, or other qualifications to perform the required work; a submission of more than one Bid by any Person under the same or different names; the failure to perform satisfactorily or meet financial obligations on previous contracts; the employment of unauthorized aliens in violation of Section 274(A)(e) of the Immigration and Naturalization Act; the listing of a Bidder on the U.S. Comptroller General's List of Ineligible Companies for Federally Financed or Assisted Projects; or the listing of a Bidder on Miami-Dade County's Debarred Contractor's List. In addition, Bids will be rejected if the Bids are not delivered to the City's Purchasing Department on or before the date and time specified for the submittal of the Bid.

3.14 LATE SUBMISSIONS

The City will not accept Bids received after the deadline designated in Section 2.4 of this ITB. The City encourages the early submittal of Bids.

3.15 BID OPENING

In this Solicitation, the award of the Agreement shall be based solely on the economic benefits (i.e., net revenue) provided to the City by a qualified (i.e., responsible), responsive Bidder, as described in Section 3.2, above.

Properly received Bids will be announced at the Bid opening. The Program Materials Revenue Forms submitted by qualified Bidders will be read aloud after the City determines whether each Bidder is qualified. Bids will be read in the Council Chambers, which is located on the 3rd floor of City Hall, 501 Palm Avenue, Hialeah, FL 33010. A list of Bidders shall be available from the City Clerk's Office within 24 hours of the Bid opening.

3.16 NO WARRANTY CONCERNING CITY DATA

The data contained in this ITB, and any data that may be provided by an employee or agent of the City, are presented to the Bidders as a convenience only. The City makes no warranty or guarantee concerning the accuracy of any data or information set forth in this ITB or any other document. Bidders shall make no claim against the City because of any such data that proves to be erroneous in any respect. Each Bidder shall have sole responsibility for determining all of the relevant facts that may affect its Bid.

END OF SECTION 3.0

SECTION 4.0 BID FORMAT

IT IS THE RESPONSIBILITY OF THE BIDDER TO ENSURE THAT THE BID BEING SUBMITTED IS COMPLETE AND ADDRESSES ALL OF THE REQUIREMENTS SET FORTH IN THIS ITB.

PLEASE READ THE ENTIRE SOLICITATION CAREFULLY BEFORE SUBMITTING A BID.

4.1 GENERAL INSTRUCTIONS

Bidders should carefully follow the format and instructions outlined in this Section 4, observing format requirements where indicated. All materials (except for plans and schematics, if any) are to be submitted on 8 1/2" X 11" paper, paginated and separated by tabs to identify each required section. Each Bid shall be neatly typed and double-sided on recycled paper, with normal margins and spacing. All documents and information must be fully completed and signed as required.

Please be concise in all responses. If any category is NOT APPLICABLE, expressly state that it is not applicable. Bids that do not include the required documents may be deemed NON-RESPONSIVE and may not be considered for evaluation.

4.2 COPIES

Please submit an original Bid and clearly mark the "Original" as such. Five (5) complete paper copies of the original Bid also must be submitted with the original Bid. In addition, one complete copy of the original signed Bid must be submitted to the City in an electronic (digital) format, in an Adobe (pdf) file, on a compact disk (CD), DVD, or USB Flash Drive. The CD, DVD, or USB Flash Drive must be clearly labeled with the Bidder's name, the Solicitation number, and the Solicitation title. If any one of the copies is incomplete, the Bid may be deemed non-responsive.

4.3 SUBMISSION OF BID PACKAGE

Each Bid shall be submitted in two (2) separate sealed envelopes or other secure packaging; one (1) sealed envelope shall be labeled the "Qualification Package" and the other sealed envelope shall be labeled the "Cost Package." The original and the copies of the Qualification Package may be submitted in one envelope or package. The original and the copies of the Cost Package also may be submitted in one envelope, but not in the envelope containing the Qualification Package.

The outside of each sealed envelope or package must clearly indicate the name and number of this Solicitation (i.e., Recyclable Materials Processing Services; ITB No. 2013-14-9500-00-011); the Bidder's name and address; and the name and telephone number of the Bidder's contact Person. Each envelope shall be marked as either the Qualification Package or the Cost Package. All of the

forms, appendices, and other information provided by the Bidder shall be placed in the Qualification Package, except for the Program Materials Revenue Form (Appendix C), which shall be placed in the Cost Package.

Bids shall be delivered no later than the time and date specified in the Solicitation Timetable (Section 2.4). After the deadline for submitting Bids, the Qualification Packages will be opened and read in the Council Chambers by a member of the Purchasing Department.

BIDS RECEIVED AFTER THE DEADLINE SPECIFIED IN THE SOLICITATION TIMETABLE WILL NOT BE CONSIDERED AND NO TIME EXTENSIONS WILL BE PERMITTED

Each Bid must be delivered to the City of Hialeah, Office of the City Clerk, 3rd floor, 501 Palm Avenue, Hialeah, FL 33010.

4.4 TABBING OF SECTIONS

Each section of the Bid shall be separated by a physical tab/divider to insure that necessary documents are not overlooked. You may label each tab as 1, 2, 3, etc. If a tab section does not apply to you, you should put "Not Applicable" on the tab divider page or on a sheet of paper.

4.5 SECTION 1 APPENDICES AND FORMS

Each Bidder shall submit the three forms described below. Responses should correspond to each particular section and subsection of the Solicitation and should be labeled accordingly.

4.5.1 BID SUBMITTAL FORM (APPENDIX A)

The Bid Submittal Form shall be submitted as part of the Qualification Package. The Bid Submittal Form must be completely and neatly filled-in.

4.5.2 SUBMITTAL CHECKLIST (APPENDIX B)

The Submittal Checklist shall be submitted in the Qualification Package as part of the Bid. The checklist is provided merely for the convenience of the Bidder and shall not be relied upon by the Bidder in lieu of the instructions or requirements contained in this Solicitation.

4.5.3 PROGRAM MATERIALS REVENUE FORM (APPENDIX C)

A Program Materials Revenue Form shall be executed and submitted in the Bidder's Cost Package. In the Program Materials Revenue Form, the Bidder shall identify the percentage of the Average Market Value (AMV), less a fee of Fifty Dollars (\$50.00) per Ton, that the Bidder will pay to the City for each Ton of Program Materials delivered to the Bidder's Designated Recycling Facility by or on behalf of the City.

4.6 SECTION 2 NARRATIVE DESCRIPTION OF QUALIFICATIONS

The Bidder must demonstrate that it meets the minimum qualification requirements set forth in Section 2, above. All of the Bidder's information concerning qualifications shall be submitted in the Qualifications Package.

4.7 SECTION 3 CONTRACT FORMS

All of the City's standard contract forms must be completed (with all blanks filled in), executed, and properly notarized. The following forms must be submitted in the following order:

Vendor Registration (if not registered)

- Form A-1 Public Entity Crimes Affidavit
- Form A-2 Non-Collusion Affidavit
- Form A-3 Insurance Requirement
- Form A-4 Insurance Check List
- Form A-5 Bidder's Acknowledgement
(attach copies of addendum, if any)
- Form A-6 City of Hialeah Disclosure Affidavit
- Form A-7 Assignment of Antitrust Claims
- Form A-8 Bidder's Qualifications and References
- Form A-9 Bidder's Subcontractors

Please include all applicable forms with your Bid documents. Each form must be filled in completely, signed and notarized. E-mailed forms will NOT be accepted.

With regard to "Form A-5 Acknowledgement of Addenda", it is the responsibility of the Bidder to check for and obtain all addenda to this ITB.

END OF SECTION 4.0

SECTION 5.0
FORMS AND APPENDICES



Forms
& Appendices



Appendix A

BID SUBMITTAL FORM:
RECYCLABLE MATERIALS PROCESSING SERVICES
ITB No.: 2013-14-9500-00-011

FEIN NO. : ____/____-____/____/____/____/____/____/____
(Bidder's Federal Employer Identification Number) If none, Bidder's Social Security Number

The undersigned Bidder certifies that this bid is submitted in accordance with the bid specifications and conditions governing this bid, and that the Bidder will accept any award(s) made to him as a result of this bid.

FIRM NAME: _____

STREET ADDRESS: _____

CITY/STATE/ZIP CODE: _____

TELEPHONE NO.: _____ FAX NO.: _____

E-MAIL: _____

By signing this document the Bidder agrees to all of the terms and conditions of this Solicitation and the Agreement that is attached hereto in Section 7 of this ITB.

AUTHORIZED SIGNATURE _____ Date _____
PERSON AUTHORIZED TO ENTER INTO CONTRACTUAL AGREEMENT

PRINT NAME OF BIDDER'S REPRESENTATIVE _____

TITLE OF BIDDER'S REPRESENTATIVE _____

THE EXECUTION OF THIS FORM CONSTITUTES THE UNEQUIVOCAL OFFER OF BIDDER TO BE BOUND BY THE TERMS OF ITS BID. FAILURE TO SIGN THIS SOLICITATION WHERE INDICATED ABOVE BY AN AUTHORIZED REPRESENTATIVE SHALL RENDER THE BID NON-RESPONSIVE. THE CITY MAY, HOWEVER, IN ITS SOLE DISCRETION, ACCEPT ANY BID THAT INCLUDES AN EXECUTED DOCUMENT WHICH UNEQUIVOCALLY BINDS THE BIDDER TO THE TERMS OF ITS OFFER.



Appendix B

SUBMITTAL CHECKLIST

RECYCLABLE MATERIALS PROCESSING SERVICES ITB No.: 2013-14-9500-00-011

This checklist is provided for Bidder's convenience only. It identifies the sections of this submittal document that must be completed and submitted with each response. Any Bid that fails to include one or more of these sections may be rejected as being non-responsive. Please be advised that this checklist may not necessarily include all of the requirements listed in this Solicitation. This checklist sets guidelines for consideration, and may be added to as the need arises.

Bidder's Name: _____

Tab/Page No.	Section One (1)	OFFICE USE ONLY
	Appendix A: Bid Submittal Form	
	Appendix B: Submittal Checklist	
Cost Package	Appendix C: Program Materials Revenue Form	
Tab/Page No.	Section Two (2)	OFFICE USE ONLY
	Narrative Description Documents	
Tab/Page No.	Section Three (3)	OFFICE USE ONLY
	A-1 Public Entity Crimes Affidavit	
	A-2 Non- Collusion Affidavit	
	A-3 Insurance Requirement	
	A-4 Insurance Check List	
	A-5 Bidder's Acknowledgement	
	A-6 City of Hialeah Disclosure Affidavit	
	A-7 Assignment of Antitrust Claims	
	A-8 Bidder's Qualifications and References	
	A-9 Bidder's Subcontractors	

FOR PURCHASING OFFICE USE ONLY	
<input type="checkbox"/> Responsive	<input type="checkbox"/> Non-Responsive <input type="checkbox"/> Other: _____
Comment: _____	



Appendix C

PROGRAM MATERIALS REVENUE FORM

RECYCLABLE MATERIALS PROCESSING SERVICES

ITB No.: 2013-14-9500-00-011

The Contractor's payments to the City shall be calculated in the manner described in Section 6 of the Agreement for Processing Recyclable Materials ("Agreement"), which is attached to the City's ITB. In the space provided below, the Bidder shall write the percentage of Average Market Value (minus the Contractor's service fee) that the Bidder will pay to the City for each Ton of Program Materials delivered to the Bidder's Designated Recycling Facility by the City or its Contract Haulers:

_____ percent of AMV [write the number in words]

_____ % of AMV [write the number]

- A. By signing and submitting this document, the Bidder: (1) acknowledges that he/she/it has carefully reviewed the terms, conditions, and requirements contained in this Solicitation, including the Agreement; and (2) if selected by the City, the Bidder will promptly execute the Agreement, as is, without change, and will comply with the requirements in the Agreement.
- B. The Bidder agrees that, after the City's Program Materials are delivered to the Bidder's facility, any and all costs associated with Processing, marketing, and transporting the Program Materials (including but not limited to the costs for the transportation and disposal of Rejects and Residue) shall be paid by the Bidder, except when the Agreement explicitly provides otherwise.
- C. The Bidder acknowledges that the capitalized words in this form are defined in the Agreement and shall have the meaning set forth therein.
- D. By signing and submitting this document, I hereby certify that I am authorized to act on behalf of the Person (i.e., individual, partnership, corporation, association, or other entity) submitting this Bid and that all statements made in this Bid are true and correct. The Bidder agrees to hold this offer open for a period of one hundred and eighty (180) days from the deadline for the delivery of Bids. If the Bidder is selected as the top-ranked Bidder, the Bidder agrees to hold this offer open for such further period as is necessary for obtaining a final award and executing the Agreement.

Name of Bidder (Please Print)

Name of Bidder's Agent (Please Print)

Title:

Signature of Bidder's Agent

Date:

WITNESSES

Witness Name (Please Print)

Witness Signature

Witness Name (Please Print)

Witness Signature

Form A-1

**SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(a),
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

**THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC
OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.**

1. This sworn statement is submitted to the City of Hialeah, Florida, by _____

(print individual's name and title)

For _____
(print name of entity submitting sworn statement)

whose business address is _____

and (if applicable) its Federal Employer Identification Number (FEIN) is _____

(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: _____.)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1) (g), **Florida Statutes**, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1) (b), **Florida Statutes**, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non jury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133 (1) (a), **Florida Statutes**, means:
1. A predecessor or successor of a person convicted of a public entity crime; or
 2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a "person" as defined in Paragraph 287.133 (1) (e) **Florida Statutes**, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business

with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (indicate which statement applies.)

____ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before an Administrative Law Judge of the State of Florida, Division of Administration Hearings and the Final Order entered by the Administrative Law Judge determined that it was not in the public interest to place the person or entity submitting this sworn statement on the convicted vendor list. (attach a copy of the final order)

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

(signature)

Sworn to and subscribed before me this _____ day of _____, 2014.

Personally known _____

OR Produced Identification _____

(Type of identification)

Notary Public - State of _____

(Printed typed or stamped
commissioned name of notary public)

Form A-2

NONCOLLUSION AFFIDAVIT OF PRIME BIDDER

State of _____)

County of _____)

_____, being first duly sworn,
deposes and says that:

- (1) He is _____ [title] of _____
[name of entity], the Bidder that has submitted the attached Bid;
- (2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham Bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person, or to fix any overhead, profit or cost element of the Bid price or the Bid price any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the **City of Hialeah** (Local Public Agency) or any person interested in the proposed Contract; and

The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Name) _____

Subscribed and sworn to before me

(Title)

This _____ day of _____, 200 _____

Title _____

(Title)

My commission expires _____

Form A-3

INSURANCE REQUIREMENTS

See Insurance Check List for applicability to this contract.

The Contractor shall be responsible for its work and every part thereof, including all materials, tools, appliances and property of every description used in connection therewith. The Contractor shall specifically and distinctly assume all risks of damage or injury to property or persons used or employed on or in connection with the work and of all damage or injury to any person or property, wherever located, resulting from any action or inaction of the Contractor under the Agreement for Processing Recyclable Materials (Agreement) or in connection with the work.

The Contractor shall, during the work under this Agreement, including extra work in connection therewith:

Maintain Worker's Compensation and Employer's Liability Insurance covering all employees including any and all leased employees, to meet the statutory requirements of the State of Florida, to protect themselves from any liability or damage which may arise by virtue of any statute or law in force or which may hereafter be enacted.

Maintain General Liability Insurance in amounts prescribed by the City to protect the Contractor in the interest of the City against all risks of injury to persons (including death) or damage to property wherever located resulting from any action or operation under the Agreement or in connection with the work.

Maintain Automobile Liability Insurance, including Property Damage, covering all used or operated automobiles and equipment used in connection with the work.

When naming the City of Hialeah as an additional insured onto the Contractor's policies, the insurance companies hereby agree and will endorse the policies to state that the City will not be liable for the payment of any premiums or assessments. An endorsement to the policy(ies) shall be issued accordingly and the certificate will state the above.

The insurance coverage shall extend to and include the contractual indemnity and hold harmless language contained in the Agreement.

Original, signed certified Insurance Certificates evidencing such insurance and such endorsements as prescribed herein shall be filed by the Contractor, before the work is started, with the City of Hialeah. The certificate must state the Solicitation Number and Title.

Products and Completed Operations Liability shall be provided, as stated in the Insurance Check List.

The Contractor will secure and maintain policies for subcontractors. All policies shall be made available to the City upon demand.

The Contractor shall take note of the indemnification contained in the Agreement and shall obtain and maintain contractual liability insurance in adequate limits for the sole purpose of protecting the City of Hialeah under the Agreement from any and all claims arising out of the Contractor's operations.

Further, the Contractor will notify its insurance agent without delay of the existence of the indemnification requirement contained within the Agreement, and furnish a copy of the Agreement to the insurance agent.

The City shall be named as additional insured on the Automobile and General Liability policy(ies) with proof to be stated on the Certificates provided to the City and this coverage to be primary to all other coverage the City possesses.

SUPERVISION

Contractual and any other Liability Insurance provided under the Agreement shall not contain a supervision, inspection, engineering services exclusion that would preclude the City from supervising and/or inspecting the Contractor's work. The Contractor shall assume all on-the-job responsibility as to the control of Persons directly employed by the Contractor and/or the subcontractor and Persons employed by the subcontractor.

CONTRACTS

Nothing contained in the Solicitation or Agreement shall be construed as creating any contractual relationship between any subcontractor and the City.

The Contractor shall be as fully responsible to the City for the acts and omissions of the subcontractors and of persons employed by them, as the Contractor is for acts and omissions of Persons directly employed by the Contractor.

PROTECTION

Precautions shall be exercised at all times for the protection of Persons, including employees, and property. All existing structures, utilities, roads, services, trees, shrubbery, etc., shall be protected against damage or interrupted service at all times by the Contractor during the term of the Agreement. The Contractor shall be held responsible for any damage to any Person or property occurring by reason of the Contractor's operation under the Agreement.

CROSS LIABILITY

It is understood and agreed that the inclusion of more than one insured under the Contractor's policy shall not restrict the coverage provided by the policy for one insured hereunder with respect to a liability claim or suit by another insured hereunder or an employee of such other insured and that with respect to claims against any insured hereunder, other insurers hereunder shall be considered members of the public; but the provisions of this Cross Liability clause shall apply only with respect to liability arising out of the ownership, maintenance, use, occupancy or repair for such portions of the premises insured hereunder as are not reserved for the exclusive use of occupancy of the insured against whom claim is made or suit is filed.

CERTIFICATE OF INSURANCE

THE CITY TO BE ENDORSED ONTO THE POLICY AS AN ADDITIONAL INSURED THUS PROVIDING THE CANCELLATION NOTIFICATION PROVISIONS TO THE CITY AS FOUND IN THE POLICY.

OUT-OF-STATE NON-RESIDENT AGENT

When a certificate is issued by an out-of-state non-resident agent with a "920" License, the name, address and telephone number of the Florida Resident Agent must be listed in the space provided on the checklist and on the Certificate of Insurance provided.

SMALL DEDUCTIBLE POLICIES

All policies issued to cover the insurance requirements herein shall provide full coverage from the first dollar of exposure. No deductibles will be allowed in any policies issued on this contract unless specific safeguards have been established to assure an adequate fund for payment of deductibles by the insured. These safeguards shall be in form of escrow accounts or other method established by the Risk Manager to safeguard to the City's interests and those interests of any claimants under the contractor's policies.

Form A-4

INSURANCE CHECK LIST

Recyclable Materials Processing Services
ITB No. 2013-14-9500-00-011

INSURANCE	LIMITS
<u>X</u> 1. WORKER'S COMPENSATION AND EMPLOYEES LIABILITY ON ALL EMPLOYEES DIRECTLY EMPLOYED OR LEASED	AS PROVIDED IN AGREEMENT
<u>X</u> 2. COMMERCIAL GENERAL LIABILITY INCLUDING PREMISES OPERATIONS AND COMPLETED OPERATIONS; INDEPENDENT CONTRACTOR AND PERSONAL INJURY INCLUDED.	<u>BODILY INJURY/PROPERTY DAMAGE</u> AS PROVIDED IN AGREEMENT
<u>X</u> 3. BROAD FORM PROPERTY DAMAGE ENDORSEMENT	AS PROVIDED IN AGREEMENT
<u>X</u> 4. CONTRACTUAL INDEMNITY/HOLD HARMLESS ENDORSEMENT EXACTLY AS WRITTEN IN "INSURANCE REQUIREMENTS" OF SPECIFICATIONS AND SECTION 11 OF THE AGREEMENT	AS PROVIDED IN AGREEMENT
<u>X</u> 5. AUTOMOBILE LIABILITY ON ALL OWNED/NON-OWNED/HIRED AUTOMOBILES INCLUDED	AS PROVIDED IN AGREEMENT
<u>X</u> 6. UMBRELLA LIABILITY	<u>AS PROVIDED IN AGREEMENT</u>
7. GARAGE LIABILITY	\$100/300,000 \$50,000 EACH OCCURRENCE
8. GARAGE KEEPER'S LEGAL LIABILITY	\$50,000 EACH OCCURRENCE
<u>X</u> 9. THE CITY MUST BE NAMED AS ADDITIONAL INSURED ON THE INSURANCE CERTIFICATE <u>AND THE FOLLOWING MUST ALSO BE STATED ON THE CERTIFICATE</u> . "THESE COVERAGES ARE PRIMARY AND NON CONTRIBUTORY TO ALL OTHER COVERAGES THE CITY POSSESSES FOR THIS CONTRACT ONLY."	
10. TEACHERS PROFESSIONAL LIABILITY	\$100/300,000 \$50,000 EACH OCCURRENCE
11. DRAM SHOP EXCLUSION DELETED AND LIQUOR LIABILITY WILL BE PROVIDED	
12. CROSS LIABILITY OR SEVERABILITY OF INTERESTS CLAUSE ENDORSEMENT	

- _____ 13. XCU PROPERTY DAMAGE EXCLUSION DELETED AND THIS COVERAGE WILL BE PROVIDED
- _____ 14. FIRE LEGAL LIABILITY
- _____ 15. OTHER INSURANCE AS INDICATED BELOW:
Builders Risk Complete Value Policy
- X 16. THIRTY (30) DAYS CANCELLATION NOTICE REQUIRED
- X 17. BEST'S GUIDE RATING: A:X OR BETTER
- X 18. THE CERTIFICATE MUST STATE THE BID NUMBER AND TITLE
- X 19. "WHEN USING THE "ACCORD" FORM OF INSURANCE CERTIFICATE, THE POLICY MUST BE SPECIFICALLY ENDORSED TO INCLUDE AND NAME THE CITY AS AN ADDITIONAL INSURED WITH THE CARRIER PROVIDING NOTIFICATION TO THE CITY IN ADVANCE OF A CANCELLATION."

BIDDER AND INSURANCE AGENT STATEMENT:

We understand the Insurance Requirements of this Solicitation and we recognize that evidence of insurability may be required within five (5) days after Bids are opened.

Bidder

Insurance Agency

Signature of Bidder

Signature of Bidder's Agent

Signature of Florida Resident Agent

Agent's Errors and Omissions Policy:

Name and Location of Agency

Policy Company; Expiration Date; Amount of Coverage; Policy Number

Form A-5

SUBMIT BIDS TO: <div style="text-align: center;"> CITY OF HIALEAH OFFICE OF THE CITY CLERK 501 PALM AVENUE, 3rd Floor HIALEAH, FL 33010 </div>			CITY OF HIALEAH INVITATION TO BID Bidder Acknowledgment	
Page 1 of 3	Telephone Number (305) 883-5857	Mailing Date <u>June 30, 2014</u>	Bid No. 2013-14-9500-00-011	
Bid may not be withdrawn within 180 DAYS after the bid opening. August 12, 2014		Bid Title Recyclable Materials Processing Services		
All awards made as a result of this bid shall conform to applicable Florida Statutes and City of Hialeah Charter and Ordinances		Reason for "no bid"		
NAME OF VENDOR		AREA CODE	TELEPHONE NUMBER	
MAILING ADDRESS		BUSINESS ADDRESS		
CITY - STATE - ZIP CODE				
I certify that this bid is made without prior understanding agreement, or connection with any corporation, firm or person submitting a bid for the same materials, supplies, or equipment, and is in all respects fair and with-out collusion or fraud. I agree to abide by all conditions of this bid and the Agreement. I certify that I am authorized to sign this bid for the bidder.		_____ AUTHORIZED SIGNATURE (MANUAL)		
		_____ AUTHORIZED SIGNATURE (TYPED) TITLE		

GENERAL CONDITIONS

SEALED BIDS: This form must be executed and submitted in a sealed envelope with the Bidder's Qualification Package. Bids not submitted with this bid form may be rejected.

1. **EXECUTION OF BID:** Each Bid must contain a manual signature of the Bidder's authorized representative in the space provided above.
2. **NO BID:** If not submitting a bid, respond by returning this form, marking it "No Bid", and explain the reason in the space provided above. Repeated failure to quote, without sufficient justification, shall be cause for removal of the supplier's name from the bid mailing list. Note: To qualify as a respondent, bidder must submit a "No Bid" and it must be received no later than the stated bid opening date and hour.
3. **BID OPENING:** Shall be at a public opening commencing at the time and date specified in the Solicitation. It is the Bidder's responsibility to assure that its bid is delivered at the proper time and place of the bid opening. Bids which for any reason are not so delivered will not be considered. Offers by telegram or telephone are not acceptable.

4. **PROOF OF CAPABILITY:** The Bidder may be required before the award of any contract, to show to the complete satisfaction of the City Council that it has the necessary facilities, ability and financial resources to perform the bid requirements in compliance with the Agreement.
5. **PATENTS AND ROYALTIES:** The Bidder, without exception, shall indemnify and save harmless the City of Hialeah and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process or article manufactured or used in the performance of the contract, including its use by the City of Hialeah, Florida. If the Bidder uses any design, device, or materials covered by letter, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or cost arising from the use of such design, device, or materials, in any way involved in the work.
6. **RATE OF WAGES:** When applicable, the rate of wages for work covered by a public contract for those employed by any contractor or subcontractor shall not be less than the prevailing rate of wages for similar skills or classifications or work in the City of Hialeah. The Division of Labor and Employment Opportunities, Tallahassee, Florida, will furnish the prevailing wage rates in the City of Hialeah, upon request.
7. **PRICES TERMS AND PAYMENT:** Firm prices shall be quoted; the prices shall be typed or printed in ink and shall include all charges, unless otherwise explicitly stipulated in the Agreement.
 - (a) **TAXES:** A Bidder shall include all applicable taxes in its bid or proposal. A Bidder will not be excused from payment of state sales or transportation taxes or other applicable taxes. A Bidder shall not base a bid price on an assumption that the City will utilize its tax exemption to purchase or order materials, equipment, etc. Any tax liability or tax payment resulting from any determination or interpretation of any law, rule, regulation or opinion is the sole responsibility of the Bidder.
 - (b) **DISCOUNTS:** Bidders may offer a cash discount for prompt payment; however, such discounts shall not be considered in determining the highest net price for bid evaluation purposes. Bidders are encouraged to reflect cash discounts in the prices quoted.
 - (c) **MISTAKES:** Bidders are expected to examine the Agreement, specifications, delivery schedule, bid prices, and all instructions pertaining to supplies and/or services. Failure to do so will be at Bidder's risk.
 - (d) **SAFETY STANDARDS:** All of Bidder's activities under the Agreement shall comply with the applicable requirements of the Occupational Safety and Health Act and any standards thereunder.
8. **AWARDS:** As the best interest of the City may require, the City reserves its right to make award(s), or reject any and all bids, or waive any minor informality or technicality in bids received.
9. **INFORMATION AND DESCRIPTIVE LITERATURE:** Bidders must furnish all information requested in the spaces provided on the bid form. Each Bidder may submit with his proposal, descriptive literature and/or complete specifications covering the Bidder's facilities and equipment.
10. **INTERPRETATIONS:** Any questions concerning conditions and specifications shall be directed to the City, as provided in the Solicitation. Inquiries must reference the date of bid opening and title. Failure to comply with this condition will result in Bidder waiving his right to dispute the bid specifications.

11. **PRICE ADJUSTMENTS:** Any price decrease effectuated during the contract period either by reason of market change or on the part of the Contractor to other customers shall be passed on to the City of Hialeah.
12. **ADVERTISING:** In submitting a proposal, Bidder agrees not to use the results therefrom as a part of any commercial advertising.
13. **LIABILITY:** The Bidder shall hold and save the City of Hialeah, its officers, agents, and employees harmless from liability of any kind in the performance of the Agreement.
14. **EQUAL EMPLOYMENT OPPORTUNITY:** The City of Hialeah endorses Equal Employment and incorporates the non-discrimination clause in this Invitation to Bid.
15. **SPECIFICATION SILENCE:** Apparent silence on the specifications as to any details, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning only the best commercial practices will prevail and that only materials and workmanship of first quality are to be provided. All interpretations of the Specifications shall be made upon this statement.

NOTE: THIS BID CONSTITUTES AN OFFER FROM THE BIDDER. IF ANY OR ALL PARTS OF THE BID ARE ACCEPTED BY THE CITY OF HIALEAH, AN AUTHORIZED REPRESENTATIVE OF THE CITY SHALL AFFIX HIS/HER SIGNATURE TO THE AGREEMENT, WHICH SHALL THEN CONSTITUTE THE WRITTEN AGREEMENT BETWEEN THE PARTIES. THE CITY HEREBY RELIES UPON ANY REPRESENTATIONS BY THE BIDDER AS ARE CONTAINED HEREIN.

Form A-6

**PURCHASING DIVISION
CITY OF HIALEAH DISCLOSURE AFFIDAVIT**

I _____ being first duly sworn, state:

The full legal name and business address* of the Person or entity contracting or transacting business with the City of Hialeah are:

Phone Number: _____ Fax Number: _____

If the contract or business transaction is with a corporation, the full legal name and business address* shall be provided for each officer and director and each stockholder who holds directly or indirectly five percent (5%) or more of the corporation's stock. If the contract or business transaction is with a partnership, the full legal name and business address* shall be provided for each partner. If the contract or business transaction is with a trust, the full legal name and address* shall be provided for each trustee and each beneficiary. All such names and addresses are:

The full legal names and business addresses* of every other individual (other than subcontractors, material men, suppliers, laborers, or lenders) who have, or will have, any interest (legal, equitable, beneficial or otherwise) in the contract or business transaction with the City of Hialeah are:

Bidder's Tax ID Number (F.E.I.N) or Social Security Number: _____ - _____

PROOF OF CORPORATE STATUS

Please provide proof of corporate status. Each corporate Bidder must demonstrate it is an active corporation in good standing in the State of Florida or any other State. If incorporated in a State other than Florida, then please provide proof that the corporation is registered to do business in the State of Florida in addition to proof of active corporate status. If incorporated in Florida, a computer print-out from the Department of State will be sufficient proof of corporate status. Proof of good standing also is required for all partnerships, limited partnerships, joint-ventures, etc.

LEGAL SIGNATURE OF AFFIANT

(Print or Type Legal Name of Affiant)

Sworn to and subscribed before me this _____ day of _____, _____

Notary Public - State of: _____

My Commission Expires: _____

Print/Type and Stamp commissioned name of Notary Public

NOTARY SEAL

Personally known _ or Produced Identification _

Type of Identification Produced _____

****Post office box addresses are not acceptable.**

Form A-7

ASSIGNMENT OF ANTITRUST CLAIMS

For, and in recognition of, good and valuable consideration,, receipt of which is hereby acknowledged,

Company Name

acting herein by and through _____,
Individual Name

its _____ and duly authorized agent,
Title of Individual's Position

hereby conveys, sells, assigns and transfers to the City of Hialeah, Florida, all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Florida for price fixing, relating to the particular goods or services purchased or acquired by the City of Hialeah, Florida pursuant to the City's ITB No. 2013-14-9500-00-011 for Recyclable Materials Processing Services and the City's Agreement for Processing Recyclable Materials.

Date

Name

Signature

Title

Name of Company

Form A-8

BIDDER'S QUALIFICATIONS AND REFERENCES

1. To assist the City of Hialeah in determining whether the Bidder is qualified to do the work set forth in the Bid and Agreement, the Bidder shall furnish hereunder a list of at least three (3) references who are qualified to judge the Bidder's qualifications and experience in providing work of a similar nature to that which the Bidder will perform for the City. If the Bidder will use a Designated Processing Facility in addition to a Designated Recycling Facility (e.g., a transfer station), the Bidder shall provide at least three (3) references for each facility. For each reference, please provide a name, address, phone number, and e-mail address (if available).

2. The Bidder shall list its previous experience with similar projects, but shall not list more than ten (10) projects.

3. The Bidder shall list the name and address of the Recycling Facility and Processing Facility (if any) that is available for the City in case the Bidder's bid is accepted.

4. The Bidder shall list the names and addresses of each Person and firm that is a principal in the Bidder.

5. The Bidder shall list the names of the Bidder's executives that will give personal attention to the Bidder's work under the Agreement.

Form A-9

BIDDER'S SUBCONTRACTORS

If the Bidder will have any subcontractors, the Bidder shall provide: (a) the name and address of each subcontractor; (b) the name and telephone number of the subcontractor's contact person; (c) a description of the work that will be performed by each subcontractor; and (d) the percent of the work that will be performed by the subcontractor.

END OF STATEMENT OF BIDDER'S QUALIFICATIONS

Section 6.0 Guidelines and General Information

6.1 CITY OVERVIEW

Hialeah, Florida (pop.235,000) is a diverse community, ideally located midway between Miami and Fort Lauderdale and encompasses approximately 23 square miles. As the fifth largest city in the State of Florida, Hialeah is committed to growth in its business community, while also focusing on issues such as education, the arts, leisure activities and sustainability to provide a viable future for our residents and preserve the City's rich history since its incorporation in 1925.

The City currently has 1300+ employees and provides a wide range of governmental services including public safety/police services, parks and recreation, public works, water and sewer, planning, building and zoning, code enforcement, and community development to its citizens.

The City is a very large consumer of goods and services and the purchasing decisions of our employees and contractors can positively or negatively affect the environment. By including environmental considerations in our procurement decisions, along with our traditional concerns with price, performance and availability, we will remain fiscally responsible while promoting practices that improve public health and safety, reduce pollution, and conserve natural resources.

6.2 DEFINITIONS

Capitalized words and phrases in this ITB are defined in Section 1, above, and in the Agreement that is contained in Section 7, below. In addition, the following terms, phrases, words and their derivations shall have the meaning given herein:

- a) **'Award'** means the acceptance of a Bid, offer, or proposal by the City Council of the City of Hialeah.
- b) **'Awarded Bidder'** means the Bidder that receives an award of the Agreement from the City as a result of this Invitation to Bid.
- c) **'Bidder'** means the Person, company, entity or organization submitting a Bid in response to this Invitation to Bid.
- d) **'Solicitation'** means this Invitation to Bid.

- e) **'Work', 'Services', 'Program', 'Project', or 'Engagement'** mean all matters and things that will require to be done by the Awarded Bidder(s) in accordance with the scope of work and all terms and conditions of this Invitation to Bid.

6.3 INVITATION

This Invitation for Bid is extended to any Person, company, and organization that can satisfy the requirement(s) specified herein. The requirements presented in this Invitation for Bid represent the City's anticipated needs.

6.4 PUBLIC ENTITY CRIME/ DISCRIMINATORY VENDOR LIST

The *Public Entity Crime Affidavit Form*, (Form "A-1") attached to this Invitation for Bid, includes documentation that shall be executed by an individual authorized to bind the Bidder. Any Bidder, or any of its suppliers, subcontractors, or consultants who shall provide goods and services which are intended to benefit the City, shall not be a convicted vendor or included on the discriminatory vendor list. If the Bidder or any affiliate of the Bidder has been convicted of a public entity crime or has been placed on the discriminatory vendor list, a period longer than 36 months must have passed since that person was placed on the convicted vendor or discriminatory vendor list. The Bidder further understands and accepts that any contract issued as a result of this Invitation for Bid shall be either voidable or subject to immediate termination by the City. In the event there is any misrepresentation or lack of compliance with the mandates of Section 287.133 or Section 287.134, respectively, Florida Statutes. The City in the event in such termination, shall not incur any liability to the Bidder for any goods, services or materials furnished.

6.5 LOBBYING

All Bidders, their agents and proposed sub-consultants or subcontractors, are hereby placed on notice that neither the City Council Members, any evaluation committee members, employees of the City or employees of any other project sponsoring agencies shall be lobbied either individually or collectively regarding this Invitation for Bid. Bidders, their agents and proposed sub-consultants or subcontractors are

hereby placed on notice that they are prohibited from contacting any of these individuals for any purpose relating to the Invitation for Bid (e.g., general information, meetings of introduction, meals, etc.). Any Bid submitted by a Bidder, its agents and potential subconsultants or subcontractors who violate these guidelines will not be considered for review. The Purchasing Director (identified on the cover page of this Invitation for Bid) shall be the only point of contact for questions and/or clarifications concerning the Invitation for Bid, the selection process and the negotiation and award procedures.

6.6 SUSPENSION OF CONTRACTORS FOR MATERIAL BREACH OF CITY CONTRACTS

The City may temporarily or permanently suspend contractors from doing business with the City whenever a contractor materially breaches its contract with the City. Any Bid submitted by a Bidder, its proposed subcontractors or subconsultants who are included on the City's Suspension List shall not be considered for review.

In addition, the principles of any Bidders or its proposed subcontractors or sub consultants shall not attempt to do business with the City under a different name or form a new legal entity in order to do business with the City while the principals of the Bidder or its proposed subcontractors or sub consultants remain on the Suspension List. In the event there is any intentional misrepresentation, the Bidder further understands and accepts that any contract issued as a result of this Invitation for Bid shall be subject to immediate termination for default and suspension procedures by the City. The City, in the event of such termination, shall not incur any liability to the Bidder for any goods, services or materials furnished.

6.7 POINTS OF CONTACT/ TIMETABLE FOR INQUIRES

Bidders shall contact the Purchasing Director, identified on the cover page of this Invitation for Bid, for all inquiries related to this ITB. All Bidders' technical inquiries shall be confirmed in writing either through the mail, via facsimile transmission or electronic mail.

Technical questions will not be entertained beyond the cut-off date indicated on the cover page.

6.8 ORAL REPRESENTATION

No oral representation made by any City staff or official shall be binding on the City. The contents of this Invitation for Bid and any subsequent addenda issued by the City shall govern all aspects of this Invitation for Bid.

6.9 ADDENDA

If any revisions to the Invitation for Bid become necessary (other than changes to the deadline for Bid submission), the City will notify all registered Bidders requesting the corresponding document at least three (3) calendar days before the date scheduled for opening the Bids. The City may revise the deadline for Bid submission at any time prior to the date and time scheduled for opening the Bids. **It is the responsibility of all Bidders to ascertain whether any addenda have been issued before the Invitation for Bid deadline by either calling or checking with the City's Purchasing Director.**

6.10 CANCELLATION OF THE INVITATION FOR BID

The City reserves the right to cancel this Invitation for Bid and/or re-advertise and re-solicit the requirements at any time when determined to be in the best interest of the City.

6.11 DEVELOPMENT COSTS

Neither the City nor its representatives shall be liable for any expenses incurred by any Person in connection with the preparation, submission or presentation of a Bid in response to this Invitation for Bid. The Bid and the information in the Bid shall be provided at no cost to the City.

6.12 TAX EXEMPT STATUS

The City is exempt from Florida Sales and Federal Excise taxes on direct purchase of tangible property.

6.13 BID SUBMISSION AND OPENING

All Bids shall be submitted in sealed envelopes by the deadline indicated on the cover page of this Invitation for Bid. The City assumes no responsibility for Bids not properly labelled.

The City will not accept Bids delivered after the established deadline. If the Bid is delivered after the established deadline, a Bidder shall be deemed non-responsive to the Invitation for Bid requirements.

Receipt of a Bid by any City office, receptionist or personal other than the Clerk's Office will not

constitute "delivery" as required by this Invitation for Bid. The City will not accept or consider Bids submitted via facsimile transmission. The public is welcome to attend the Bid opening.

6.14 ASSIGNMENT OF BIDS

A Bidder shall not transfer or assign its Bid to a third party following submission of a Bid to the City.

6.15 WITHDRAWAL OF BID

A Bidder may withdraw their submitted Bid by notifying the City in writing through an authorized representative at any time prior to the opening/submittal deadline. Individuals making the withdrawal shall provide evidence of serving as an authorized representative of the Bidder. Bids, once received, become the property of the City, and will not be returned to Bidders even when they are withdrawn from consideration.

Bids, once opened, shall not be withdrawn or modified except to the extent agreed to by the City during subsequent contract negotiation.

6.16 PUBLIC RECORDS AND EXEMPTIONS

Upon receipt, Bids become "public records" and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes. Bidders shall invoke the exemptions to disclosure provided by law, in the Bid, by providing the specific statutory authority for the claimed exemption, identifying the data or other materials to be protected and stating the reasons why such exclusion from public disclosure is necessary.

6.17 REJECTION OF BIDS

The City reserves the right to reject any and all Bids for reasons including, but not limited to, the following: (1) when such rejection is in the interests of the City; (2) if such Bid is deemed non-responsive; (3) if the Bidder is deemed non-responsive; or (4) if the Bid contains any materials irregularities. Minor irregularities contained in a Bid may be waived by the City. A minor irregularity is a variation from the Invitation for Bid that does not affect the price of the contract nor does it give a Bidder an advantage or benefit not enjoyed by other Bidders and does not adversely impact the City.

6.18 CONE OF SILENCE / CONFLICT OF INTEREST AND CODE OF ETHICS

After the advertisement of this Invitation for Bid, all communications concerning this Solicitation

should be directed to the City's Acting Director of the Purchasing Department. Potential Bidders and their agents and employees shall not contact the Mayor, any member of the City Council, or any member of the City staff, except the Acting Director of Purchasing, to discuss this Solicitation. Notwithstanding any other provision of this section, the imposition of a cone of silence on this Invitation To Bid shall not preclude purchasing staff from obtaining industry comment or performing market research provided all communications related thereto with a potential offeror, service provider, Bidder, lobbyist, or consultant are in writing or are made at a duly noticed public meeting.

This Section 6.18 does not apply to oral communications at pre-Bid conferences, oral presentations before selection committees, contract negotiations, and public presentations made to the City Council during any duly noticed public meeting. A copy of all written communications must be filed with the City Clerk.

6.19 BUSINESS ENTITY REGISTRATION

The City of Hialeah requires business entities to complete and file a registration application before doing business with the City. Bidders need not register with the City to present a Bid; however, the selected Bidder(s) must register prior to award of a contract because the failure to register may result in the rejection of the Bid. To register, contact the Purchasing Department at (305) 883-5865. It is the responsibility of the business entity to update and renew its application concerning any changes, such as new address, telephone number, etc. during the performance of any agreement obtained as a result of this Invitation for Bid.

6.20 SEALED BIDS

The original copies of the Bid Forms, as well as any other pertinent documents, must be returned to the City in order for the Bid to be considered for award. All Bids are subject to the conditions specified herein and on the attached Special Conditions, Specifications and Bid Forms.

The completed Bid must be submitted in sealed envelopes clearly marked with the Bid title to the Office of the City Clerk of the City of Hialeah, 3rd floor, 501 Palm Avenue, Hialeah, Florida 33010 before 3:00 p.m., local time on the date due.

6.21 EXECUTION OF BID

The Bid must contain a manual signature of an authorized representative in the space provided on the Bid Form. Failure to properly sign the Bid shall invalidate same and it shall NOT be considered for award. All Bids must be completed in pen or be typewritten. No erasures are permitted. If a correction is necessary, draw a single line through the entered figure and enter the corrected figure above it. Corrections must be dated and initialed by the person signing the Bid. Any illegible entries, pencil Bids or corrections not initialed will not be tabulated. The original Bid conditions and specifications CANNOT be changed or altered in any way after being submitted to the City.

6.22 PAYMENT

The City of Hialeah complies with Florida Statute 218.70, Florida Prompt Payment Act. Prompt payment is made within forty-five (45) days of date on which proper invoicing is received for goods and services and thirty (30) business days for construction services.

6.23 LEGAL REQUIREMENTS

Federal, State, County and City laws, ordinances, rules and regulations that in any manner affect the items covered herein apply. Lack of knowledge by the Bidder will in no way be a cause for relief from responsibility.

The individual executing this Bid on behalf of the Company warrants to the City that the Company is a Florida corporation duly constituted and authorized to do business in the State of Florida, is in good standing and that Company possesses all of the required licenses and certificates of competency required by the State of Florida and the County of Miami-Dade to provide the goods or perform the services herein described.

6.24 BID OPENING

Bids shall be opened and publicly read in the Council Chambers, 3rd floor, 501 Palm Avenue, Hialeah, Florida 33010 on the date and at the time specified on this Solicitation.

6.25 DISPUTES

In case of any doubt or difference of opinion as to the services to be furnished hereunder, the decision of the City shall be final and binding on both parties. Any bid protest shall be handled pursuant to Section 2-815.1 of the City Code.

6.26 PATENTS & ROYALTIES

The Bidder, without exception, shall indemnify and save harmless the City of Hialeah, Florida and its employees from liability of any nature or kind, including cost and expenses for, or on account of, any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the City. If the Bidder uses any design, device or materials covered by letters, patent, or copyright, it is mutually understood and agreed, without exception, that the Bid prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in providing the required goods or services.

6.27 OSHA

The Bidder warrants that the product and services supplied to the City shall conform in all respects to the standards set forth in the Occupational Safety and Health Act of 1970, as amended, and the failure to comply with this condition will be considered as a breach of contract. Any fines levied because of inadequacies to comply with these requirements shall be borne solely by the Bidder responsible for same.

6.28 SPECIAL CONDITIONS

Any Special Conditions that vary from these General Conditions shall have precedence.

6.29 ANTI-DISCRIMINATION

The Bidder certifies compliance with the non-discrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin.

6.30 INSURANCE/PERMIT

Bidders are required to assume the full duty, obligation and expense of obtaining all necessary licenses, permits and insurance and assure all work complies with all Dade County and City of Hialeah building requirements and the South Florida Building Code. The Bidder shall be liable for any damages or loss to the City occasioned by negligence of the Bidder (or agent) or any person the Bidder has designated in the completion of the contract as a result of the Bid.

6.31 BID BONDS, PERFORMANCE BONDS, CERTIFICATES OF INSURANCE

Bid Bonds, when required, shall be submitted with the Bid in the amount specified in Special Conditions. After acceptance of Bid, the City will notify the successful Bidder to submit a performance bond and certificate of insurance in the amount specified in Special Conditions.

6.32 FACILITIES

The City reserves the right to inspect the Bidder's facilities at any time with prior notice.

6.33 BID TABULATIONS

Bidders desiring a copy of the Bid tabulation may request same by enclosing a self-addressed stamped envelope with the Bid.

6.34 APPLICABLE LAW AND VENUE

The law of the State of Florida shall govern this ITB and the contract between the City of Hialeah and the successful Bidder. Any action concerning this ITB or the Agreement shall be brought exclusively in the state or federal courts in and for Miami-Dade County, Florida.

6.35 CLARIFICATION AND ADDENDA TO BID SPECIFICATIONS

If any person contemplating submitting a Bid under this Invitation for Bid is in doubt as to the true meaning of the specifications or other Bid documents or any part thereof, the Bidder must submit a request for clarification to the City of Hialeah Purchasing Director. All such requests for clarification must be made in writing and the person submitting the request will be responsible for its timely delivery.

Any interpretation of the Bid, if made, will be made only by Addendum duly issued by the City of Hialeah Purchasing Director. The City shall issue an Informational Addendum if clarification or minimal changes are required. The City shall issue a Formal Addendum if substantial changes which impact the technical submission of Bids are required. A copy of such Addendum will be emailed to each Bidder receiving the Invitation for Bid. In the event of a conflict with the original Agreement, the Addendum shall govern all other Contract Documents to the extent specified. Subsequent addendum shall govern over prior addendum only to the extent specified.

6.36 AWARD OF CONTRACT

A. A contract may be awarded to the responsive, responsible Bidder whose Bid, conforming to the Invitation for Bid, is most advantageous to the City of Hialeah. The best responsive, responsible Bidder(s) will be determined in conjunction with the method of award which is described in the Special Conditions.

B. The City shall award a contract to a Bidder only through action taken by the City Council.

C. While the City may determine to award a contract to a Bidder(s) under this Invitation for Bid, said Award may be conditional on the subsequent submission of other documents as specified in the Special Conditions. The Bidder shall be in default of any conditional award if any of these documents are not submitted in a timely manner and in the form required by the City. If the Bidder is in default, the City, through the Purchasing Director, will void its acceptance of the Bidder's offer and may determine to select the second most responsive, responsible Bidder or re-solicit Bids. The City may, at its sole option, seek monetary restitution from the defaulting Bidder as a result of damages or excess costs sustained and/or may prohibit the Bidder from submitting future Bids for a period of one year.

D. The City reserves the right to exercise the option to renew a term contract of any successful Bidder(s) to a subsequent optional period; provided that such option is stipulated in the contract ultimately awarded in regard to this Bid.

E. The City reserves the right to automatically extend any contract for a maximum period not to exceed ninety (90) calendar days in order to provide City departments with continual service and supplies while a new contract is being solicited, evaluated and/or awarded, provided this is expressly made a part of any contract awarded in regard to this Bid.

6.37 ASSIGNMENT

The Bidder shall not assign, transfer, convey, or otherwise dispose of any contract, including any or all of its right, title, or interest therein, or its power to execute such contract to any person, company or corporation without prior written consent of the City.

6.38 LAWS, PERMITS AND REGULATIONS

The Bidder shall obtain and pay all licenses, permits and inspection fees as may be required by the Agreement and this ITB. The Bidder shall comply with all laws, ordinances, regulations, building code requirements applicable to the goods or services contemplated herein.

6.39 OPTIONAL CONTRACT USAGE

Other State agencies, and/or Governmental Entities in the State of Florida may purchase from the resulting contract, provided the City, has certified its use to be cost effective and in the best interest of the City.

6.40 SPOT MARKET PURCHASES

It is the intent of the City to purchase the goods or services specifically listed in this Bid from the selected Bidder. However, items that are to be "Spot Market Purchased" may be purchased by other methods, i.e. Federal, State or local contracts.

6.41 INCENTIVES/DISINCENTIVES

The City has EXCLUDED incentive/disincentive for early completion provisions in the contract. Liquidated damages may apply for untimely delivery of goods or services.

6.42 NON-COLLUSION

By submitting this Bid, Bidder certifies that this offer is made without prior understanding, agreement, or connection with any corporation, firm or person submitting an offer for the same materials, services, supplies, or equipment and is in all respects fair and without collusion or fraud.

No premiums, rebates or gratuities are permitted, either with, prior to or after any

delivery of material or provision of services. Any violation of this provision may result in the Contract cancellation, return of materials or discontinuation of services and the possible removal from the vendor Bid list(s).

6.43 FLORIDA PUBLIC RECORDS ACT

All material submitted regarding this Bid becomes the property of the City. Bids may be reviewed by any Person ten (10) days after the public opening. Bidders should take special note of this as it relates to any proprietary information that might be included in their offer.

Any resulting contract may be reviewed by any Person after the contract has been executed by the City. The City has the right to use any or all information/material submitted in response to this Bid and/or any resulting contract from same. Disqualification of a Bidder does not eliminate this right.

6.44 STANDARDIZED CHANGES

Contract documents shall be modified, if necessary, to reflect the requirements of 23 CFR 635.109. The changed conditions contract clauses shall be made part of, and incorporated in this project which has been approved under 23 U.S.C. 106.

END OF SECTION 6

AGREEMENT FOR PROCESSING

RECYCLABLE MATERIALS

BETWEEN

CITY OF HIALEAH, FLORIDA

AND

XYZ COMPANY [CONTRACTOR]

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AGREEMENT FOR PROCESSING RECYCLABLE MATERIALS

This Agreement for Processing Recyclable Materials ("Agreement") is made and entered into this ____ day of _____, 2014 ("Effective Date"), by and between the City of Hialeah, Florida, a municipal corporation of the State of Florida ("City") and _____XYZ Company ("Contractor").

RECITALS

WHEREAS, the City collects Recyclable Materials ("Recyclables") from the residents in the City; and

WHEREAS, the City wishes to manage the City's Recyclables in a manner that is efficient, lawful, environmentally-sound, and financially beneficial; and

WHEREAS, the City issued an invitation to bid ("ITB" or "Solicitation") that solicited bids from any qualified Person wishing to Process, market, and sell the City's Recyclables; and

WHEREAS, the Contractor submitted a bid in response to the City's Solicitation (ITB No. 2013-14-9500-00-011); and

WHEREAS, the City has relied upon the information provided by the Contractor concerning the Contractor's experience and ability to provide the services requested by the City; and

WHEREAS, the City has concluded that the Contractor's bid is responsive to the City's Solicitation and it provides the best overall value for the City; and

WHEREAS, the City and the Contractor wish to enter into this Agreement concerning the Recyclables Processing services that the Contractor will provide to the City; and

WHEREAS, the City has concluded that entering into this Agreement is beneficial, in the best interests of the public, and in compliance with the City's Ordinances.

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, Contractor and the City do hereby agree to comply with and be bound by the following provisions of this Agreement:

SECTION 1. EFFECTIVE DATE, COMMENCEMENT DATE, AND TERM

- A. Effective Date and Commencement Date. The Effective Date of this Agreement is the date when this Agreement is duly executed and signed by the City, which shall occur after the Agreement is duly executed and signed by the Contractor. The Commencement Date is the date when the Contractor shall begin to provide the services required pursuant to this Agreement.
- B. Initial Term. This Agreement shall be in effect and binding upon the Parties from the Effective Date until this Agreement terminates or expires. The initial term of this Agreement shall be a

five (5) year period, beginning on the Commencement Date, unless this Agreement is terminated earlier or extended in accordance with the provisions contained herein.

- C. Renewal Option. At the option of the City and with the concurrence of the Contractor, this Agreement may be renewed multiple times, but the total duration of the renewal terms shall not exceed five (5) years. Each renewal shall be subject to the prior approval of the City Council.

SECTION 2. DEFINITIONS

The words and phrases used in this Agreement shall be defined in the manner provided in this Section 2. If a word or phrase is not defined herein, the word or phrase shall be defined in the manner provided in the City's Ordinances.

Agreement means this "Agreement For Processing Recyclable Materials," including all of the exhibits and amendments hereto.

Applicable Law means any local, state or federal statute, law, constitution, charter, ordinance, judgment, order, decree, permit, rule, regulation, directive, policy, standard or similar binding authority, or a judicial or administrative interpretation of any of the same, which are in effect or are enacted, adopted, promulgated, issued or enforced by a governmental agency or authority during the term of this Agreement, and relate or apply in any manner to the performance of the City or Contractor under this Agreement.

Average Market Value or AMV means a market index used to determine the amount of revenue that will be paid by the Contractor to the City for the Program Materials delivered to the Designated Recycling Facility, based on the monthly values paid in the commodity market for Recyclables. The specific method for calculating the AMV is set forth in Section 6, below.

Biomedical Waste means any waste that may cause disease or reasonably be suspected of harboring pathogenic organisms, including waste resulting from the operation of medical clinics (veterinary or otherwise), hospitals (veterinary or otherwise), and other facilities processing waste that may consist of, but are not limited to, human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, sharps, contaminated clothing, and surgical gloves.

City means, depending on the context, either (a) the geographic area contained within the municipal boundaries of the City of Hialeah, Florida or (b) the government of the City, acting through the City Council or its designees.

City Vehicle means a truck or other motor vehicle that delivers Recyclable Materials to the Designated Recycling Facility and is owned and operated by the City or a Contract Hauler.

Commencement Date means the date when the Contractor shall begin to provide its services to the City pursuant to this Agreement. The Commencement Date shall be September 1, 2014, or any other date that is mutually acceptable to the City and the Contractor.

Contract Hauler means any Person that has entered into a franchise agreement or other contract with the City to collect or transport Recyclables for the City.

Contract Year means (a) with regard to the first Contract Year, the twelve (12) consecutive month period beginning on the Commencement Date and (b) with regard to subsequent Contract Years, each twelve (12) consecutive month period thereafter.

Contractor means the Person that shall provide the services required pursuant to this Agreement. The Contractor is _____ [XYZ Company].

Council means the City Council of the City of Hialeah, Florida, or its designee.

Designated Processing Facility means the facility designated in this Agreement where the Contractor will Process the City's Program Materials. The Designated Processing Facility may be the same as or different than the Designated Recycling Facility.

Designated Recycling Facility means the facility designated in this Agreement where the Contractor will receive and accept delivery of the City's Program Materials. The Designated Recycling Facility may be a materials recovery facility, a recovered materials processing facility, or a transfer station, as those terms are defined in Rule 62-701.200, Florida Administrative Code.

Director means the Director of the City's Public Works Department or the Director's designee.

Effective Date means the date when this Agreement is signed and duly executed by the City, which shall occur after the Agreement is signed and duly executed by the Contractor.

FDEP means the Florida Department of Environmental Protection and any successor agency or Governmental Authority.

Force Majeure Event means an act, event, or condition that (a) directly, substantially, and adversely affects the City's or the Contractor's ability or cost to perform in compliance with the requirements in this Agreement, (b) is beyond the reasonable control of the Person affected by the Force Majeure Event, and (c) is not due to any negligence or lack of planning or diligence by the Person affected by the Force Majeure Event. However, a Force Majeure Event does not include a change in a tax law, a labor strike or labor difficulty, changing economic conditions, or an economic hardship.

Governmental Authority means any federal, state, or local governmental, regulatory or administrative agency, authority, or commission or any court, tribunal, or judicial or arbitral body.

Hazardous Waste means any Solid Waste present in quantities or concentrations that are defined and regulated as a "hazardous waste" by the Florida Department of Environmental Protection.

Holiday means a designated date on which the Contractor is not be required to provide its services under this Agreement. For the purposes of this Agreement, the only Holidays are Christmas Day and other days that are approved as Holidays by the Director.

Household Hazardous Waste or HHW means a waste that is produced in a home and contains hazardous substances in concentrations that pose a threat to human health. HHW includes: ammonia; ammunition; anti-freeze, fluids, and batteries for automobiles; batteries, oil, and fluids for boats; charcoal lighter fluid; compact fluorescent bulbs; drain cleaners; fertilizers; fire extinguishers; fireworks; flares; fluorescent tubes; gasoline; herbicides; household cleaners; insecticides; kerosene;

lawn chemicals; lighter fluid; mercury thermometers; motor oil; nail polish remover; paint; pesticides; photographic chemicals; pool chemicals; propane tanks; rechargeable batteries; rust remover; solvents; spot remover; tires; turpentine; weed killer; wood stains; wood stripper; and other items that are designated as HHW with the mutual consent of the City and Contractor.

Load means the Recyclables and other materials delivered to the Designated Recycling Facility in a City Vehicle.

Ordinances means the ordinances included in the City's code of ordinances.

Parties means the City and the Contractor.

Party means, depending on the context, either the City or the Contractor.

Permit means any permit, license, authorization, or other governmental approval required for the Contractor's work under this Agreement.

Person means any and all persons and entities, natural or artificial, including any individual, firm, partnership, joint venture, or other association, however organized; any municipal or private corporation organized or existing under the laws of the State of Florida or any other state; any county or municipality; and any Governmental Authority.

Processing, Processed, and other variations of the verb "to Process" mean any technique designed to change the physical, chemical, or biological character or composition of any Solid Waste so as to render it: safe for transport; amenable to recovery, storage, or recycling; safe for disposal; or reduced in volume or in concentration.

Program Materials means Recyclable Materials collected by or on behalf of the City and over which the City has control. Recyclable Materials include newspapers (including inserts), corrugated cardboard, mixed paper (including brown paper bags, magazines, phonebooks, junk mail, white and colored paper, shredded paper in a bag, and paperboard), aluminum cans, plastic containers and bottles marked with SPI codes 1-7, glass bottles and jars, tin and ferrous cans, polycoated cartons, and other materials designated as Program Materials by mutual agreement of the City and Contractor.

Public Records Law means Chapter 119 of the Florida Statutes.

Recovered Materials means Recyclable Materials that have been separated from the Solid Waste stream and Processed to market specifications.

Recyclable Materials or Recyclables means those materials that are capable of being recycled and which would otherwise be Processed or disposed of as Solid Waste.

Rejects means materials, other than Residue, that cannot be recycled and cannot be Processed into Recovered Materials.

Residue means the portion of the Recyclable Materials accepted by the Contractor that is not converted to Recovered Materials due to breakage and/or Processing inefficiencies at the Designated Processing Facility.

Single Stream means a recycling Process in which the generator (e.g., a resident) places all of the different types of Recyclable Materials together in a bin or cart for collection by the City or its Contract Hauler (if any). In a Single Stream system, all of the Recyclables are commingled together; the generator and the hauler are not required to separate the Recyclables into two or more containers.

Solid Waste means garbage, rubbish, refuse, trash, and other similar discarded materials resulting from domestic, commercial, industrial, agricultural, or governmental operations. Solid Waste does not include Recyclable Materials, Unacceptable Waste, or Solid Waste that is not controlled by the City.

Ton means 2,000 pounds.

Transfer Station means a facility that is primarily used to store or hold Solid Waste prior to transport to a Processing or disposal facility. The operations at a Transfer Station may include the separation of incidental amounts of Recyclable Materials or Unacceptable Waste.

Unacceptable Waste means Biomedical Waste, Hazardous Waste, sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, used oil, tires, and those wastes under the control of the Nuclear Regulatory Commission.

Work Day means any calendar day, except Sundays and Holidays.

SECTION 3. RESERVED

SECTION 4. CONTRACTOR'S RECYCLABLES PROCESSING RESPONSIBILITIES

A. Designated Facilities

- (1) The following facility is the Designated Recycling Facility at which Program Materials will be received by the Contractor pursuant to this Agreement, beginning on the Commencement Date: _____, located at _____ Street, _____ City, Florida, or such other facility that is approved in writing by the Director.
- (2) The following facility is the Designated Processing Facility at which Program Materials will be Processed pursuant to this Agreement, beginning on the Commencement Date: _____, located at _____ Street, _____ City, Florida, or such other facility that is approved in writing by the Director.
- (3) The Designated Recycling Facility and Designated Processing Facility may be changed only with the prior written approval of the Director.

- (4) The Contractor shall be solely responsible for all aspects of the design, permitting, financing, construction, management, staffing, operation, closure, and maintenance of the Designated Recycling Facility and Designated Processing Facility.
- (5) The Contractor shall ensure that the Designated Recycling Facility and Designated Processing Facility are operated at all times in compliance with all Applicable Law.
- (6) The City shall have the right, but not the duty, to inspect and observe the operating and maintenance practices at the Designated Recycling Facility and Designated Processing Facility. Among other things, the City may observe the receipt, separation, Processing, loading, storage, and transport of the materials received at each facility. The City may inspect and observe these facilities at any time during the Contractor's normal hours of operation, as specified in Section 4.B(2), below. The Contractor shall accommodate the City's inspections, but may require the City to comply with reasonable safety requirements.

B. Materials Acceptance

- (1) Beginning on the Commencement Date, to the extent allowed by law, the City shall deliver and direct the Contract Hauler (if any) to deliver the City's Program Materials to the Designated Recycling Facility during the days and hours specified in Section 4.B(2), below. The City's Program Materials may be collected and delivered to the Designated Recycling Facility in a Single Stream. The City provides no warranties or guarantees regarding the quantity, quality, or characteristics of the Program Materials that will be delivered to the Designated Recycling Facility.
- (2) Beginning on the Commencement Date, the Contractor shall accept deliveries of the City's Program Materials at the Designated Recycling Facility between the hours of 6:00 a.m. and 6:00 p.m., Monday through Friday, and 6:00 a.m. and 4:00 p.m. on Saturday, or other hours approved in writing by the Director. At the Contractor's option, the Designated Recycling Facility may be closed on Holidays. No reduction in the scheduled receiving hours shall be made without the prior written approval of the Director.
- (3) The City shall have the right to designate other types of Recyclable Materials as Program Materials, if the Parties agree it is technically feasible and cost-effective to Process such Recyclable Materials.
- (4) The Designated Recycling Facility shall be operated in a manner that facilitates the easy and rapid ingress and egress of City Vehicles. The Contractor shall use all reasonable measures to ensure that the average turnaround time for City Vehicles does not exceed twenty (20) minutes. The average turnaround time shall be determined on a daily basis. The turnaround time shall be measured from the time when a City Vehicle enters the queue at the entrance to the Designated Recycling Facility and it shall include all of the time until the City Vehicle leaves the facility site. However, the turnaround time shall not include delays caused by (a) equipment failures that are not the result of the Contractor's negligence, (b) the negligent actions of the City's drivers or the Contract Hauler, or (c) the breakdown of City Vehicles. Within one (1) Working Day after

receiving the City's request, the Contractor shall provide the City with access to the Contractor's records concerning the turnaround times for the City Vehicles.

- (5) The Designated Recycling Facility shall be equipped with truck scales and computerized recordkeeping systems for weighing and recording the delivery of the City's Program Materials. The Contractor shall calibrate and certify the accuracy of the scales at least once each calendar quarter.
- (6) The Contractor shall weigh each City Vehicle that delivers Program Materials to the Designated Recycling Facility. The Contractor's records shall identify the gross weight of each City Vehicle, the weight of the Load delivered in each City Vehicle, the date when the City Vehicle delivered the Load, and the times when the City Vehicle entered and left the facility site. The Contractor shall record and keep this information in a manner that allows the Contractor to provide reports concerning the City's Program Materials as required herein or reasonably requested by the City. The Contractor may use tare weights. If the Contractor chooses to use tare weights, all tare weights shall be recalibrated at least once every sixty (60) calendar days.
- (7) If Hazardous Waste is found within a Load of Program Materials delivered to the Designated Recycling Facility in a City Vehicle, the Contractor shall immediately: (a) take photographs of the Hazardous Waste; (b) take photographs of the truck that delivered the waste to the Designated Recycling Facility; (c) take photographs of the truck number; (d) record the truck driver's name and pertinent information concerning the source of the Hazardous Waste, if known; and (e) notify the Director. The Contractor shall properly isolate, containerize, and dispose of the Hazardous Waste in accordance with Applicable Law. The Contractor shall have the burden of demonstrating that the Hazardous Waste was delivered to the Designated Recycling Facility in a City Vehicle. The City shall reimburse the Contractor for all reasonable, documented, out-of-pocket expenses the Contractor incurs for the management and disposal of Hazardous Waste that was delivered to the Designated Recycling Facility in a City Vehicle.
- (8) In the event the Contractor fails, refuses, or is unable to accept part or all of the City's Program Materials on the Commencement Date or anytime thereafter during the term of this Agreement, the Contractor shall be liable for all hauling, Processing, transportation, disposal, and other related charges and costs that the City incurs with regard to marketing, recycling, and/or disposing of such materials. Among other things, the Contractor shall pay the City for any deficit the City incurs if the revenue from the sale of Program Materials is less than the revenue the City would have received if the Contractor had accepted the Program Materials when they were delivered to the Designated Recycling Facility.

C. Transport, Processing, Marketing, and Disposal

- (1) Upon acceptance of Program Materials at the Designated Recycling Facility, the Contractor shall bear all costs associated with Processing or transporting Program Materials and marketing and transporting Recovered Materials. The Contractor is

responsible for all costs of transporting and disposing non-recyclable materials, including Rejects and Residue, resulting from the Processing of Program Materials.

- (2) Unless the Contractor has received the prior written permission of the Director, the Contractor shall not dispose of Program Materials or Recovered Materials resulting from the Processing of Program Materials. Such prior written permission from the City is not required for any type of Recyclable Material or Recovered Material that has an AMV of zero (\$0.00) or less, as determined in compliance with Section 6, below.
- (3) With regard to Program Materials or Recovered Materials obtained from Program Materials, the Contractor shall not knowingly provide such materials to a Person that will place such materials in a landfill, burn such materials in a waste-to-energy facility, or otherwise dispose of such materials, except as provided in 4.C(2), above. The Contractor shall not knowingly, or without reasonable investigation, sell Program Materials or Recovered Materials resulting from processing of Program Materials to another Person that will dispose of such material.
- (4) The requirements in Sections 4.C(2) and (3) do not apply to Rejects and Residue.

D. Record Keeping

- (1) The Contractor shall create, maintain, and make available all of the records required herein, as well as any records required under Applicable Law. The Contractor shall create, maintain, and make available to the City all of the records reasonably necessary to demonstrate that the Contractor has performed all of its work under this Agreement in compliance with the requirements contained herein.
- (2) The Contractor shall create and maintain records identifying the amount of Program Materials that were delivered to the Designated Recycling Facility by the City and its Contract Hauler (if any). The Contractor's records shall clearly distinguish between the Program Materials delivered by or on behalf of the City and the materials delivered by other Persons.
- (3) The Contractor shall maintain its records in an organized, up-to-date manner, in accordance with generally accepted management principles and practices. The City shall have access to the Contractor's books, records, and documents for inspection, review, and copying in Dade County during normal business hours, within five (5) Working Days after the City requests such records. The Contractor will provide appropriate facilities for conducting such inspection.
- (4) The Florida Public Records Law may be applicable to the Contractor's records or documents pertaining to this Agreement. Contractor agrees to comply with all Applicable Laws, including the applicable provisions (if any) of Section 119.0701, Florida Statutes.
- (5) The Contractor will maintain and allow access to the books, records, data, documents, and reports relating to this Agreement in accordance with the records retention

requirements set forth in Florida law or for five (5) years after this Agreement expires or terminates, whichever is later.

E. Reporting

- (1) Prior to the fifteenth (15th) calendar day of each month during the term of this Agreement, the Contractor shall submit a report electronically to the Director, in a format approved by the Director. The report shall identify the total tonnage of Program Materials delivered to the Designated Recycling Facility by the City and its Contract Hauler during the previous month. The report shall contain a breakdown of such deliveries by delivery date and time, vehicle number, and quantity per vehicle.
- (2) Within thirty (30) days after the end of each Contract Year, the Contractor shall provide the Director with a report summarizing the total Tons of Program Materials delivered to the Designated Facility by the City and its Contract Hauler during the Contract Year and the net tonnage diverted from disposal. Additionally, the Contractor shall provide the City with a copy of the Contractor's annual report to FDEP, summarizing the Recyclable Materials deliveries by type, quantity, and source. The report shall be provided to the City within seven (7) days after the report is submitted to FDEP.
- (3) At least fifteen (15) days prior to the end of each Contract Year during the term of this Agreement, the Contractor shall ensure and certify to the City that all required documents are current and on file with the City. Such documents include, but are not limited to, certificates of insurance and the performance bond.

F. Public Education and Information

- (1) The Contractor shall, at no cost to the City, provide an educational presentation concerning the Designated Recycling Facility at two (2) events per Contract Year, if such presentations are requested by the City.
- (2) The Contractor shall, at no cost to the City, provide tours of the Designated Recycling Facility and Designated Processing Facility for the benefit of the City and its invitees/guests. The City shall provide the Contractor at least ten (10) calendar days advance notice of such tours. The Contractor shall provide personnel (bilingual upon request) to lead the tour and the Contractor shall provide all necessary personal safety equipment. Prior to conducting any tours, the City and the Contractor shall jointly designate the areas where tour-group participants can safely observe the operations of the facility.

SECTION 5. RESERVED

SECTION 6. REVENUE AND PAYMENT FOR RECYCLABLES

A. Program Materials Revenue

- (1) The Contractor shall pay the City monthly for each Ton of Program Materials delivered to the Designated Recycling Facility, as determined by the Designated Recycling Facility's

scales. The payment per Ton shall be calculated as follows and as described in Exhibits 1, 2, and 3:

- (a) Each month, the Contractor shall calculate the Average Market Value (AMV) of the Program Materials, defined as the sum of the Southeast USA regional average commodity prices (U.S. Dollars per Ton) first posted in the month for which payment is being made in RecyclingMarkets.net, multiplied by the composition percentages identified in Exhibit 2. If at any time during the term of this Agreement RecyclingMarkets.net no longer posts or otherwise fails to provide the applicable market indices, then the parties shall mutually select an appropriate replacement source for the required information from among the sources recycling industry professionals utilize to obtain reliable Recovered Material pricing information.
 - (b) A Contractor's Fee of Fifty Dollars (\$50.00) per Ton shall be deducted from the AMV. This fee shall be adjusted as specified in Section 6.A.(2).
 - (c) The Contractor shall pay the City a percentage, as provided in Exhibit 1, of the remaining amount, for each Ton of Program Materials delivered to the Designated Recycling Facility during that month. The percentage payable to the City is percent (%) of the AMV (net of Contractor's Fee).
 - (d) If the AMV is less than the Contractor's Fee, the Contractor shall make no payment to the City. At no time shall the City make payment to the Contractor for accepting, Processing, or marketing Program Materials, regardless of the AMV.
- (2) The Contractor's Fee of Fifty Dollars (\$50.00) per Ton shall remain unchanged through the first Contract Year. On June 1, 2015 and each subsequent June 1 during the term of the Agreement, the Contractor's Fee shall be adjusted based on seventy-five percent (75%) of the percentage change in the Consumer Price Index (CPI) between the month of March in the previous year and the month of March in the current year, rounded to the nearest tenth. The CPI will be the Consumer Price Index for the South Urban Region, All Items – All Urban Wage Earners and Clerical Workers, (series ID #CWURO300SA0) published by the United States Department of Labor, Department of Labor Statistics. Notwithstanding anything else contained herein, the total adjustment to the Contractor's Fee in any given year shall not exceed three percent (3%) of the Contractor's Fee in the previous year. If the CPI is discontinued or substantially altered, the City may select another relevant price index published by the United States Government or by a reputable publisher of financial and economic indices.
- (3) At any time, the City or Contractor may conduct a composition study of the Program Materials delivered to the Designated Recycling Facility. The Party requesting such study shall pay for the study unless otherwise agreed upon. The final methodology for the study, and the selection of a qualified Person to conduct the study, must be approved by the City. The City reserves the right to have a representative onsite throughout the composition study. Study results are subject to final approval by the City, which shall not be unreasonably withheld. If approved by the City, adjustments to the composition percentages provided in Exhibit 2 shall be made and shall become effective for the

following month and the remainder of the Agreement or until further adjusted as the result of a future composition study.

- (4) In May 2014, the City conducted a composition study concerning the Program Materials. At that time, the City used garbage cans to collect garbage and it used wheeled carts to collect Program Material. If the City uses wheeled carts to collect garbage in the future, the composition of the Program Materials may change significantly. Accordingly, the City and the Contractor shall conduct a new composition study within ninety (90) days after the City's residents receive garbage carts or at any other time that is mutually acceptable to the City and the Contractor. The requirements in Section 6.A.(3) shall apply to the new composition study; however, the cost of the composition study shall be shared equally (50% - 50%) by the City and the Contractor.
- (5) The Contractor acknowledges and accepts that the formula outlined in this Section 6.A shall be used for calculating the Contractor's revenue throughout the term of this Agreement. The formula is intended to reflect the current value of Program Materials, but might not be an exact calculation of that value. If the commodity revenue received by the Contractor differs from the market index, or if the Contractor's Fee does not accurately reflect the Contractor's cost for accepting, Processing, and marketing Program Materials, the Contractor shall not be entitled to other payments or revenues from the City, because the Contractor has taken such items into consideration when establishing the percentage of the AMV (less the Contractor's Fee) that the Contractor will pay to the City. Any and all costs associated with accepting, Processing, marketing, and transporting Program Materials shall be the sole responsibility of the Contractor.

B. Invoicing and Payment

- (1) No later than the fifteenth (15th) day of each month, the Contractor shall submit a monthly report, in a form acceptable to the City, detailing the total revenue due to the City for the Program Materials delivered to the Designated Recycling Facility during the previous month. The report shall be sent to the following address:

City of Hialeah
Public Works Department
Attn: Director
3700 West 4th Street
Hialeah, FL 33012

- (2) The Contractor shall remit payment of said revenue, as detailed in the monthly report, within thirty (30) calendar days after the end of the month for which the payment is due. Payment shall be delivered to the following:

City of Hialeah
Public Works Department
Attn: Director
3700 West 4th Street
Hialeah, FL 33012

SECTION 7. CHANGE IN LAW

The Contractor may petition the City for a rate adjustment based on a change in law that directly, significantly, and adversely affects Contractor's cost of providing its services under this Agreement. The Contractor's request shall contain substantial proof and justification to support the need for the rate adjustment. The City may request from the Contractor such further information as may be reasonably necessary in making the City's determination. Within sixty (60) calendar days of receipt of the request and all other additional information required by the City, the Director shall make a determination regarding the fairness of the request, and shall make a recommendation to the City Council. The City Council shall consider the request at a regular meeting. The City Council may grant or deny the Contractor's request, in the Council's sole discretion. If the City Council approves the request, adjusted rates shall become effective upon execution of a written amendment to the Agreement.

SECTION 8. LIQUIDATED DAMAGES

- A. Assessment of Liquidated Damages. The City and Contractor recognize and agree that certain events may cause the City to suffer losses or damages that are by their nature uncertain, difficult to prove, and not ascertainable at the time the Agreement is entered into. The parties agree that certain breaches will cause Contractor to pay liquidated damages without any proof of the actual damage resulting from the breach. In no event shall these liquidated damages be construed or deemed to constitute penalties. The Director (or the Director's designee) may assess such liquidated damages pursuant to this Section 8 on a monthly basis in connection with this Agreement and shall, at the end of each month during the term of this Agreement, notify the Contractor in writing of the liquidated damages assessed and the basis for each assessment. In the event the Contractor wishes to contest such assessment, it may request in writing a meeting with the Director to resolve the issue. The Director shall notify the Contractor in writing of any action taken with respect to Contractor's claims. The Director's decision shall be final and conclusive unless determined by a court of competent jurisdiction to be fraudulent, capricious, arbitrary, so grossly erroneous as to necessarily imply bad faith, or not supported by competent evidence.
- B. Liquidated Damages for Recyclables Processing Service. The City may assess liquidated damages against the Contractor for failing to provide Processing services in compliance with the requirements of this Agreement. It is hereby agreed that the City may demand immediate payment from the Contractor, and the Contractor shall pay, for liquidated damages, and not as a penalty, in the following amounts:

- | | |
|---|-----------------------------|
| 1. Failure to accept Recyclable Materials during scheduled receiving hours (Section 4.B(2)) | \$500 per unaccepted Load |
| 2. Failure to provide a daily average delivery vehicle turnaround time that does not exceed 20 minutes (Section 4.B(4)) | \$500 per day |
| 3. Disposing of Recyclable Materials or Recovered Materials without prior approval of the Director (Section 4.C.) | \$1,000 per occurrence |
| 4. Failure to submit timely records and reports (Section 4.E.) | \$100 per calendar day late |

5. Failure to make timely payment to the City (Section 6.B.) \$100 per calendar day late

SECTION 9. EMERGENCY SERVICE PROVISIONS

In the event of a hurricane, tornado, major storm, natural disaster, or other such event, the Director may grant the Contractor a variance from regular service. However, Contractor shall make its best effort to resume regular service as soon as possible, and shall resume regular service no later than the date when the City or the City's Contract Hauler (if any) resumes the collection of Program Materials. As soon as practicable after such event, the Contractor shall advise the Director when it is anticipated that normal service can be resumed.

SECTION 10. PERFORMANCE BOND

- A. Prior to the Commencement Date, the Contractor shall furnish to the City a Performance Bond for the faithful performance of this Agreement and all obligations arising hereunder. The Contractor shall keep the Performance Bond current and in effect at all times throughout the term of this Agreement and any renewal terms. The Performance Bond shall be in the amount of Fifty Thousand Dollars (\$50,000).
- B. The Performance Bond shall be executed by a surety company: licensed to do business in the State of Florida; having an "A X" or better rating by A.M. Best or Standard and Poors; included on the list of surety companies approved by the Treasurer of the United States; and in a form acceptable to the City.

SECTION 11. INSURANCE

- 11.1 Policy limits. Contractor shall not commence performance under this Agreement until Contractor has obtained all of the insurance required under this Section 11 and Certificates of Insurance reflecting the required insurance have been filed with the Director.

Contractor shall maintain insurance with minimum policy limits for each coverage as scheduled below, with such coverage per occurrence, single limit, and commencing prior to the commencement of the work under this Agreement, and continuing to provide coverage for claims based on occurrences during the initial term and any renewal term of this Agreement (except for Pollution Liability, which may be provided on a claims made basis) for a minimum of three years after the date of termination or expiration of this Agreement:

<i>Commercial General Liability</i>	<i>\$1,000,000/\$2,000,000</i>
<i>Contractual Liability</i>	<i>\$1,000,000/\$2,000,000</i>
<i>Commercial Automobile Liability</i>	<i>\$1,000,000 Per occurrence</i>
<i>Pollution Liability</i>	<i>\$1,000,000/\$2,000,000</i>
<i>Worker's Compensation</i>	<i>Statutory Amount</i>

Employer's Liability

\$1,000,000

Umbrella Liability

\$5,000,000

The Commercial General Liability insurance and the Contractual Liability insurance shall have dedicated limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate for bodily injury and property damage. This coverage shall also include personal and advertising injury, medical payments, and completed operations. The Commercial Automobile Liability insurance shall have a minimum limit of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate and shall cover any automobile or other vehicle, including non-owned, hired, or leased vehicles. The Worker's Compensation insurance shall comply with the requirements and statutory limits established by the State of Florida. The Employer's Liability insurance shall have a minimum limit of One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

- 11.2 City as additional insured. The City shall be named as an additional insured on all insurance policies required under this Agreement, except Workers Compensation. All Insurance Policies shall be endorsed to provide that (a) Contractor's insurance is primary and non-contributory to any other insurance available to the City or any other additional insured with respect to claims covered under the policy and (b) Contractor's insurance applies separately to each insured against whom claims are made or suit is brought, and (c) the inclusion of more than one insured shall not operate to increase the Insurer's limit of liability. Without the City's prior written approval, self-insurance by Contractor shall not be acceptable as providing any of the insurance coverages required in this Agreement. The Contractor's Certificate of Insurance must identify the City's Solicitation number and title (Recyclable Materials Processing Services; ITB No. 2013-14-9500-00-001).
- 11.3 Insurance company standards. Policies required under this Agreement shall be issued by companies authorized to do business under the laws of the State of Florida, with minimum ratings from A.M. Best Company of A or better, and FSC X or better.
- 11.4 Notice of cancellation. Contractor agrees to furnish City at least thirty (30) days prior written notice of any cancellation of any insurance policy required under this Agreement. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, then Contractor shall furnish, at least ten (10) days prior to the expiration date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. Contractor shall not continue to work pursuant to this Agreement unless all required insurance remains in full force and effect.
- 11.5 Minimum level of umbrella coverage. To ensure an adequate level of outstanding insurance coverage for claims that arise from Contractor's performance under this Agreement, Contractor shall maintain a minimum outstanding level of umbrella insurance coverage during the term of this Agreement in the amount of Five Million Dollars (\$5,000,000) after deducting the amount of any claims filed or made against any policy required under this Agreement. Such coverage shall be maintained at all times during the term of this Agreement and the three (3) year period following the term of this Agreement.

- 11.6 Premium payment responsibility. Contractor shall be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Agreement and shall be solely responsible for the payment of all deductibles and retentions to which such policies are subject. Contractor shall ensure that any company issuing insurance to satisfy the requirements contained in this Agreement, agrees that they shall have no recourse against City for payment or assessments in any form on any policy of insurance.
- 11.7 Claims made policies. If Contractor's insurance policy is a "claims-made" policy, then Contractor shall maintain such insurance coverage for a period of five (5) years after the expiration or termination of this Agreement or any extensions or renewals of this Agreement. Applicable coverages may be met by keeping the policies in force, or by obtaining an extension of coverage commonly known as a reporting endorsement of tail coverage.
- 11.8 If any of Contractor's insurance policies includes a general aggregate limit and provides that claims investigation or legal defense costs are included in the general aggregate limit, the general aggregate limit that is required shall be at least five (5) times the occurrence limits specified in this Section 11.
- 11.9 The official title of the owner is the City of Hialeah. This official title shall be used in all insurance policies and documentation.
- 11.10 All required insurance policies shall preclude any insurer's or underwriter's rights of recovery or subrogation against the City, with the express intention of the Parties being that the required insurance coverage protects both Parties as the primary coverage for any and all losses covered by the above-described insurance.
- 11.11 The clauses "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as it appears in any policy of insurance in which City is named as an additional named insured shall not apply to the City in any respect. The City shall use its best efforts to provide written notice of occurrence within thirty (30) Working Days after City's actual notice of such event.
- 11.12 Notwithstanding any other provisions of this Agreement, Contractor's obligation to maintain all required insurance as specified in this Section 11 of the Agreement shall survive the expiration and termination of this Agreement.

SECTION 12. INDEMNIFICATION OF CITY

- A. Contractor shall indemnify, defend, and hold harmless City, City's contractors, and the public officials, officers, directors, employees, agents, and other contractors of each of them, from and against any and all claims, which shall include but not be limited to any and all costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals as well as all court or other dispute resolution costs), liabilities, expenditures or causes of action of any kind (including negligent, reckless, willful or intentional acts or omissions of the Contractor, any subcontractor, any supplier, any Person or organization directly or indirectly employed by any of them to perform or furnish any services or anyone for whose acts any of them may be liable), caused by the Contractor's breach of this Agreement,

the Contractor's violation of Applicable Law, or the negligent acts or omissions of the Contractor in the performance of this Agreement. This indemnity includes but is not limited to claims attributable to bodily injury, sickness, disease or death and to injury or destruction of tangible property. Further, the Contractor's indemnity includes all claims based on, arising out of, or related to (1) the payment of fees, royalties, or costs for any invention or patent rights or for the infringement of any copyrights or patents claimed by any Person, (2) the City's decision to award this Agreement to the Contractor, and (3) the Contractor's refusal to produce documents under the Public Records Law.

- B. Contractor agrees, at Contractor's expense, after written notice from the City, to defend any action against the City that falls within the scope of the indemnity set forth above in Section 12.A, or the City, at the City's option, may elect instead to secure its own attorneys to defend any such action and the reasonable costs and expenses of such attorneys incurred in defending such action shall be payable by Contractor. Additionally, if Contractor, after receipt of written notice from the City, fails to make any payment due under this Agreement to the City or fails to perform any obligation required by this Agreement, Contractor shall pay any reasonable attorneys' fees and costs incurred by the City in securing any such payment from Contractor, or any reasonable attorneys' fees and costs incurred in the enforcement of this indemnity, or both. Payment of any amount due pursuant to the foregoing indemnity shall, after receipt of written notice by Contractor from the City that such amount is due, be made by Contractor prior to the City being required to pay same, or in the alternative, the City, at the City's option, may make payment of an amount so due and Contractor shall promptly reimburse the City for same, together with interest thereon at the rate of twelve percent (12%) per annum simple interest from the date of receipt by Contractor of written notice from the City that such payment is past due at least twenty (20) days .
- C. It is specifically understood and agreed that the consideration inuring to the Contractor for the execution of this Agreement includes the promises, payments, covenants, rights, and responsibilities contained in this Agreement.
- D. The execution of this Agreement by the Contractor shall obligate the Contractor to comply with the foregoing indemnification provision; however, the collateral obligation of providing insurance must be also complied with, as set forth in Section 11, above.
- E. The Contractor shall require each of its subcontractors to enter into a contract containing the provisions set forth in the preceding subsections and shall require the subcontractors to fully indemnify the City in accordance with this Agreement.

SECTION 13. POINT OF CONTACT

The day-to-day dealings between the Contractor and the City shall be between the Contractor and the Director or the Director's designee.

SECTION 14. NOTICE

Except as otherwise expressly provided herein, whenever either party desires to give notice to the other, it must be given by written notice with hand delivery or sent by certified U.S. mail, with return

receipt requested, addressed to the Party for whom it is intended, at the place last specified and to the place for giving of notice in compliance with the provisions of this Section 14. For the present, the Parties designate the following as the respective Persons and places for giving of notice:

As to the City:

Director of Public Works Department
City of Hialeah
3700 West 4th Street
Hialeah, FL 33012

With a copy to:

Lorena Bravo, City Attorney
City of Hialeah
501 Palm Avenue
Hialeah, FL 33010

As to the Contractor:

With a copy to:

Notices shall be effective when received at the address specified above. Changes in the respective addresses to which such notice is to be directed may be made from time-to-time by written notice.

SECTION 15. TERMINATION OF CONTRACT

A. Termination for Cause. The City may cancel this Agreement, except as otherwise provided below in this Section 15, by giving the Contractor fifteen (15) days advance written notice, to be served as provided in Section 14, upon the happening of any one of the following events:

- (1) The Contractor shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors or file a voluntary petition in bankruptcy (court) or a petition or answer seeking an arrangement for its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States or any state thereof or consent to the

appointment of a receiver, trustee or liquidator of all or substantially all of its property;
or

- (2) By order or decree of a court, the Contractor shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of the Contractor, seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) days after the entry thereof, any notice of default shall be and become null, void and of no effect, unless such stayed judgment or order is reinstated, in which case, said default shall be deemed immediate; or
- (3) By, or pursuant to or under the authority of any legislative act, resolution or rule or any order or decree of any court or governmental board, agency or officer having jurisdiction, a receiver trustee or liquidator shall take possession or control of all or substantially all of the property of the Contractor, and such possession or control shall continue in effect for a period of sixty (60) days; or
- (4) The Contractor has defaulted by failing or refusing to pay in a timely manner the liquidated damages or other monies due the City and said default is not cured within fifteen (15) days of receipt of written notice by City to do so; or
- (5) The Contractor has defaulted by allowing any final judgment for the payment of money to stand against it unsatisfied and said default is not cured within fifteen (15) days of receipt of written notice by City to do so; or
- (6) The Contractor has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Agreement or any of the rules and regulations promulgated by the City pursuant to this Agreement or has wrongfully failed or refused to comply with the instructions of the Director relative thereto and said default is not cured within fifteen (15) days of receipt of written notice by the City to do so, or if by reason of the nature of such default, the same cannot be remedied within fifteen (15) days following receipt by the Contractor of written demand from the City to do so, the Contractor fails to commence the remedy of such default within said fifteen (15) days following such written notice or having so commenced shall fail thereafter to continue with diligence the curing thereof (with the Contractor having the burden of proof to demonstrate that (a) the default cannot be cured within fifteen (15) days, (b) it is proceeding with diligence to cure said default, and (c) such default will be cured within a reasonable period of time). However, notwithstanding anything contained herein to the contrary, if the Contractor is unable for any reason or cause to resume performance at the end of thirty (30) calendar days, all liability of the City under this Agreement to the Contractor shall cease and this Agreement may be deemed terminated by the City.

In the event that the monies due the City under subsection (4) above or an unsatisfied final judgment under subsection (5) above is the subject of a judicial proceeding, the Contractor shall not be in default if the sum of money is bonded. All bonds shall be in the form acceptable to the City Attorney.

- B. Habitual Violations. Notwithstanding the foregoing and as supplemental and additional means of terminating this Agreement under this Section 15, in the event that the Contractor's record of performance shows that the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by the Contractor, and regardless of whether the Contractor has corrected each individual condition of default, the Contractor shall be deemed a "habitual violator," shall be deemed to have waived the right to any further notice or grace period to correct, and all of said defaults shall be considered cumulative and collectively and shall constitute a condition of irredeemable default. The City shall thereupon issue the Contractor a final warning citing the circumstances therefore, and any single default by the Contractor of whatever nature, subsequent to the occurrence of the last of said cumulative defaults, shall be grounds for immediate termination of this Agreement. In the event of any such subsequent default, the City may terminate this Agreement upon giving of written final notice to the Contractor, such cancellation to be effective upon the date specified in the City's written notice to the Contractor, and all contractual fees due hereunder plus any and all charges and interest shall be payable to said date, and the Contractor shall have no further rights hereunder. Immediately upon the specified date in such final notice, the Contractor shall cease any further performance under this Agreement.
- C. Termination Without Cause. In addition to and notwithstanding any other provisions of this Agreement, this Agreement may be terminated by the City for convenience, without cause, upon providing the Contractor with ninety (90) days written notice.
- D. Effective Date of Termination. In the event of the aforesaid events specified in subsections 15.A, 15.B, and 15.C, above, and except as otherwise provided in said subsections, termination shall be effective upon the date specified in the City's written notice to the Contractor and upon said date this Agreement shall be deemed immediately terminated and upon such termination all liability of the City under this Agreement to the Contractor shall cease, and the City shall have the right to call the performance bond and shall be free to negotiate with other contractors for the services specified herein. The Contractor, for failure to perform, shall reimburse the City for all direct and indirect costs of obtaining interim service.

SECTION 16. MODIFICATIONS TO THE AGREEMENT

The City shall have the power to make changes in this Agreement as the result of changes in law, the City Code, or both, and to impose new rules and regulations on the Contractor under this Agreement relative to the scope and methods of providing the service specified herein as shall from time-to-time be necessary and desirable for the public welfare. The City shall give the Contractor notice of any proposed change and an opportunity to be heard concerning those matters. If a change is required as a result of an amendment to the City's Code, upon receipt of the proposed change, Contractor shall have ten (10) business days to either accept the change or to terminate this Agreement by providing the City with ninety (90) days written notice of termination. Failure to provide the City with written notice of termination shall constitute acceptance of the proposed change. The scope and method of providing service as referenced herein shall also be liberally construed to include, but they are not limited to, the manner, procedures, operations and obligations, financial or otherwise, of the Contractor.

The City and the Contractor understand and agree that the Florida Legislature has the authority to make comprehensive changes in Solid Waste management legislation and that these and other changes in law in the future which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Agreement. The Contractor agrees that the terms and provisions of any City Code of the City related to Solid Waste services and regulations, as it now exists or as it may be amended in the future as a result of any changes in the law, shall apply to all of the provisions of this Agreement. In the event any future change in the City Code materially alters the obligations of the Contractor, then the fee established in the exhibits to this Agreement shall be adjusted. Nothing contained in this Agreement shall require any Party to perform any act or function contrary to law. The City and Contractor agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of the public welfare or due to change in law. When such modifications are made to this Agreement, the City and the Contractor shall negotiate in good faith a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of the Contractor due to any modification in the Agreement under this Section 16. The City and the Contractor shall not unreasonably delay or withhold agreement to such compensation adjustment.

SECTION 17. PERMITS AND LICENSES

The Contractor shall obtain, at its own expense, all permits and licenses required by Applicable Law and shall maintain same in full force and effect at all times during the term of this Agreement.

SECTION 18. INDEPENDENCE OF AGREEMENT

It is understood and agreed that nothing herein is intended or should be construed as in any way establishing the relationship of co-partners or a joint venture between the Parties hereto or as constituting the Contractor as an agent, representative or employee of the City for any purpose whatsoever. The Contractor is to be, and shall remain, an independent contractor with respect to all services performed under this Agreement.

SECTION 19. FORCE MAJEURE

If either Party is prevented from or delayed in performing its duties under this Agreement by a Force Majeure Event, including, without limitation, fires, hurricanes, severe weather, floods, pandemics, quarantines, war, civil disturbances, acts of terrorism, labor disputes, acts of God, or material changes in any Applicable Law, or acts of any Governmental Authority, then the affected Party shall be excused from performance hereunder during the period of such disability. The Party seeking relief as a result of a Force Majeure Event shall promptly notify the other Party in writing when it learns of the existence of a Force Majeure Event and when the Force Majeure Event has terminated. Notwithstanding anything in this Agreement to the contrary: (a) the term "Force Majeure Event" does not include, and a Party shall not be excused from performance under this Agreement for, events relating to increased costs or changing economic conditions, including, without limitation, increased costs of fuel, labor, insurance, or other expenses of performing the services hereunder; and (b) a Force Majeure Event shall not be grounds for a delay or failure to satisfy a Party's payment obligations under this Agreement. If a Force Majeure Event will prevent the Contractor from satisfying its obligations under this Agreement for more

than thirty (30) calendar days, the City may terminate this Agreement after providing five (5) Work Days written notice.

SECTION 20. EMPLOYEE STATUS

The City shall have no obligation to pay or provide for the Contractor's employees. A Person employed by the Contractor in the performance of services and functions pursuant to this Agreement shall have no claim to any rights or benefits provided by the City to the City's employees (e.g., pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to the City's officers and employees).

SECTION 21. EQUAL OPPORTUNITY EMPLOYMENT

Contractor shall comply with all federal, state and local laws applicable to the Contractor's services, specifically including those covering Equal Opportunity Employment, the Americans with Disabilities Act ("ADA"), and the South Florida Building Code. The Contractor is expected to fully comply with all provisions of all Applicable Laws and the City reserves the right, but not the obligation, to verify the Contractor's compliance with them. Failure to comply with any Applicable Laws will be grounds for termination of this Agreement for cause.

SECTION 22. CONTRACTOR'S WARRANTIES

The Contractor warrants that all work, materials, services and equipment that may reasonably be inferred from this Agreement as being required to produce the intended result, will be supplied by the Contractor at its own cost, whether or not specifically identified and required in this Agreement.

The Contractor warrants and agrees that all work, materials, services and equipment necessitated by the inspections of City agencies or other regulatory agencies, in order to bring the Contractor's work into compliance with this Agreement and all Applicable Laws, shall be the responsibility of the Contractor and shall be provided at no additional cost to the City.

SECTION 23. RIGHT TO REQUIRE PERFORMANCE

The failure of the City at any time to require performance by the Contractor of any provision hereof shall in no way affect the right of the City thereafter to enforce same, nor shall waiver by the City of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself. To be effective, any waiver shall be in writing and signed by the Party granting such waiver. Any waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

SECTION 24. GOVERNING LAW

The Parties agree that this Agreement shall be construed in accordance with and governed by the laws of the State of Florida.

SECTION 25. CONSENT TO JURISDICTION AND VENUE; WAIVER OF JURY TRIAL

Any claim, objection or dispute arising out of the terms of this Agreement shall be litigated exclusively in the state and federal courts in and for Dade County, Florida. THE PARTIES EXPRESSLY, VOLUNTARILY, AND IRREVOCABLY WAIVE ALL RIGHTS TO TRIAL BY JURY FOR ANY DISPUTES ARISING FROM OR IN ANY WAY CONNECTED WITH THIS AGREEMENT. The Parties understand and agree that this waiver is a material term of this Agreement.

SECTION 26. LITIGATION

In the event of any litigation which arises out of, pertains to, or relates to this Agreement, or the breach of it, including, but not limited to, the standard of performance required in it, the Parties shall each pay their own attorneys' fees, costs, and expenses at trial and all appellate levels.

SECTION 27. COMPLIANCE WITH LAWS

The Contractor shall conduct its operations under this Agreement in compliance with all applicable federal, state and local laws and regulations.

SECTION 28. SEVERABILITY

If any provision of this Agreement or the application of it to any Person or situation shall to any extent be held invalid or unenforceable, the remainder of this Agreement and the application of such provisions to Persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected, shall continue in full force and effect, and shall be enforced to the fullest extent permitted by law.

SECTION 29. ASSIGNMENT AND SUBLETTING

No assignment of this Agreement or any right occurring under this Agreement shall be made in whole or in part by the Contractor without the express written consent of the City. The City shall have full discretion to approve or deny, with or without cause, any proposed or actual assignment by the Contractor. Any assignment of this Agreement made by the Contractor without the express written consent of the City shall be null and void and shall be grounds for the City to declare a default of this Agreement and immediately terminate this Agreement by giving written notice to the Contractor, and upon the date of such notice this Agreement shall be deemed immediately terminated, and upon such termination all liability of the City under this Agreement to the Contractor shall cease, and the City shall have the right to call the performance bond and shall be free to negotiate with other contractors, or any other Person or company for the service which is the subject of this Agreement. In the event any assignment is approved by the City, the assignee shall fully assume all the liabilities of the Contractor.

SECTION 30. MODIFICATIONS

This Agreement constitutes the entire Agreement and understanding between the Parties, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the Parties hereto.

SECTION 31. CONSTRUCTION OF AGREEMENT

- A. Both Parties are represented by legal counsel and they hereby waive any rule of law that would require any doubtful or ambiguous provisions contained herein to be construed against the Party that physically prepared this Agreement. The rule sometimes referred to as "Fortius Contra Proferentum" shall not be applied to the interpretation of this Agreement. The Parties agree that this Agreement shall not be construed more strictly against one Party than against the other merely because one Party prepared the document.
- B. In this Agreement, the words "include" and "including" shall be deemed to be followed by the phrase "without limitation." References to included matters or items shall be regarded as illustrative only and shall not be interpreted as a limitation on or an exclusive listing of the matters or items referred to.
- C. All of the citations herein to the Florida Statutes shall mean and refer to the Florida Statutes as they exist on the Effective Date.

SECTION 32. FUND APPROPRIATION

The Contractor understands and agrees that the City, during any fiscal year, is not authorized to expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year and that any contract, verbal or written, made in violation of these prohibitions is null and void and that consequently, no money may be paid on such contract beyond such limits. Nothing contained in this Agreement shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executed only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Contractor shall not proceed with services under this Agreement without City's written verification that the funds necessary for Contractor's compensation and other necessary expenditures are budgeted as available within the appropriate fiscal year budget. The City does not represent that said budget item will be adopted, such determination being the prerogative of the City Council at the time of the adoption of the budget.

SECTION 33. PUBLIC ENTITY CRIME

Contractor understands that a Person or affiliate as defined in Section 287.133, Florida Statutes, who has been placed on the convicted vendor list maintained by the Florida Department of Management Services following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the City and may not transact business with the City in an amount set forth in Section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Contractor herein certifies that it is qualified under Section 287.133, Florida Statutes, to provide the services set forth in this Agreement.

SECTION 34. FINANCIAL INTEREST

Contractor warrants and represents that: (a) no elected official, officer, agent or employee of the City has a financial interest, directly or indirectly, in this Agreement or the compensation to be paid under it;

(b) no Person who acts in the City as a "purchasing agent" as defined in Chapter 112, Florida Statutes, nor any elected or appointed officer of the City, nor any spouse or child of such purchasing agent, employee or elected or appointed officer, is a partner, officer, director or proprietor of the Contractor; and (c) no such Person, purchasing agent, City elected or appointed officer, or the spouse or child of any of them, alone or in combination, has a material interest in the Contractor. Material interest means direct or indirect ownership of more than five percent (5%) of the total assets or capital stock of the Contractor.

SECTION 35. ALL PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained in this Agreement. The Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements, whether oral or written.

SECTION 36. AUDIT AND INSPECTION RIGHTS AND RETENTION OF RECORDS

City shall have the right to audit the books, records and accounts of Contractor that are related to this Agreement during normal business hours. Contractor shall keep such books, records, and accounts reasonably required to document and substantiate Contractor's performance under this Agreement, including, but not limited to, records concerning calibration of the motor truck scales and the monthly reports required under Section 4, above.

Contractor shall preserve and make available at reasonable times for examination and audit by City, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period established by the Florida Public Records Law, if applicable or a minimum period of five (5) years after termination of this Agreement, whichever is longer, unless Contractor is notified in writing by the City of the need to extend the retention period. The retention of such records and documents shall be at Contractor's expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or five (5) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Law is determined by City to be applicable to Contractor's records, Contractor shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by Contractor. Any incomplete or incorrect entry in the Contractor's books, records, and accounts shall be a basis for disallowance and recovery of any payment based upon such entry.

SECTION 37. THIRD PARTY BENEFICIARIES

Neither the City nor Contractor intends that any Person shall have a cause of action against either of them as a third party beneficiary under this Agreement. Therefore, the Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. The Parties expressly acknowledge that it is not their intent to create any rights in any third person or entity under this Agreement.

SECTION 38. PAYMENT DISPUTES

If the City disagrees with any amount stated in any invoice from the Contractor, the City shall notify the Contractor of such dispute. The City shall make payment to Contractor of the undisputed invoiced amounts within thirty (30) days after receipt of the invoice. In the event of a disputed amount, the Parties shall reasonably attempt to discover the cause of any discrepancy between the Parties, and if a resolution is not reached within forty five (45) days of the City's notice of such dispute, the Parties shall resolve the dispute in any manner permitted by Florida law. The existence of a dispute shall not delay payment of undisputed amounts to Contractor, or relieve Contractor of any of its obligations to City under this Agreement.

SECTION 39. PUBLIC RECORDS

The Contractor shall comply with all of the requirements in the Florida Public Records Law that are applicable to the Contractor. Among other things, the Contractor shall comply with any applicable requirements in Section 119.0701, Florida Statutes.

SECTION 40. MOST FAVORED PRICING AND MATERIAL TERMS

In the event that Contractor subsequently enters into an agreement for a term of more than twelve (12) months (including renewal and option periods) for the Processing and/or recycling of another Governmental Authority's Recyclable Materials (or a private entity that provides the recycling for all or substantially all of the Recyclables generated within a Governmental Authority's jurisdiction) generated anywhere within Miami-Dade, Palm Beach, or Broward County (an "Eligible Agreement"), Contractor shall provide the City with a copy of the Eligible Agreement within sixty (60) days of execution thereof. If the City determines that the Eligible Agreement includes a recycling payment that is greater than the payment set forth herein for the City, the City may provide written notice to Contractor of City's determination and, if the City does so, the Program Recyclable payments to the City shall be increased to the amount set forth in the Eligible Agreement, and such change shall be effective retroactive to the effective date of the Eligible Agreement. Thereafter, the Parties shall proceed under this Agreement in accordance with the greater Recyclables payment.

SECTION 41. HEADINGS

Headings in this document are for convenience of reference only and are not to be considered in any interpretation of this Agreement.

SECTION 42. EXHIBITS

Each exhibit referred to in this Agreement forms an essential part of this Agreement. Each such exhibit is a part of this Agreement and is incorporated by this reference.

SECTION 43. REPRESENTATIONS

As an inducement to the City, Contractor represents and warrants that: (a) Contractor is duly organized and validly existing under the laws of the State of Florida, with full legal right and authority to enter into

and perform its obligations under this Agreement; and (b) Contractor is duly authorized to execute and deliver this Agreement without further approvals or authorizations.

SECTION 44. REMEDIES NOT EXCLUSIVE

The remedies specified in this Agreement shall supplement, and not be in lieu of, any other remedies provided at law or in equity. The payment of any liquidated damages by the Contractor shall not constitute a defense for the Contractor, nor an election of remedies by the City, nor serve as the basis for a claim of estoppel against the City, nor prevent the City from terminating this Agreement. The City's decision to refrain from assessing liquidated damages, or suspending or terminating this Agreement, or seeking any other relief from any failure in the Contractor's performance, shall not constitute a waiver of the City's right to pursue any other remedy or a waiver of its right to pursue a remedy for any future failure by the Contractor. No remedy conferred by this Agreement is intended to be exclusive of any other remedy. Each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No single or partial exercise by any Party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

SECTION 45. SOVEREIGN IMMUNITY

Nothing in this Agreement shall be interpreted or construed to mean that the City waives its common law sovereign immunity or the limits on liability set forth in Section 768.28, Florida Statutes.

IN WITNESS WHEREOF, the City and the Contractor have executed this Agreement on the respective date(s) below each signature.

City of Hialeah, Florida
A municipal corporation

ATTEST:

By:

City Clerk

Mayor

Date: _____

Date: _____

(CITY SEAL)

Approved as to form and correctness:

City Attorney

Date: _____

CONTRACTOR

WITNESSES:

Signature

Print Name and Title

____ day of _____, 2014

Signature

Print Name and Title

____ day of _____, 2013

ATTEST:

SECRETARY

(CORPORATE SEAL)

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ [Name] as _____ [Title], of _____ [XYZ Corporation], an organization authorized to do business in the State of Florida, and acknowledged that he/she executed the foregoing Agreement as the proper official of _____ [XYZ Corporation] for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/she is personally known to me or has produced _____ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal in the State and County aforesaid on this _____ day of _____, 2014.

NOTARY PUBLIC

My Commission Expires:

EXHIBIT 1

CONTRACTOR'S PROGRAM MATERIALS REVENUE FORM

Contractor submitted the attached Program Recyclables Revenue Form in response to the City's ITB No. 2013-14-9500-00-011, establishing the basis for the payments that will be made by the Contractor to the City pursuant to this Agreement.

EXHIBIT 2

INITIAL COMPOSITION OF PROGRAM MATERIALS AND CALCULATION OF AVERAGE MARKET VALUE

Material	Index Description	Index Value (Apr '14)	Index Value Per/Ton	Material %	Average Market Value (\$/Ton)
Newspaper	PS 8 baled, F.O.B. seller's dock	\$ 70.00	\$ 70.00	7.6%	\$5.32
Corrugated containers	PS II baled, F.O.B. seller's dock	\$ 120.00	\$ 120.00	10.8%	\$12.96
Mixed paper	PS I baled, F.O.B. seller's dock	\$ 52.50	\$ 52.50	12.3%	\$6.46
Steel cans	\$/Ton, sorted, baled and delivered	\$ 115.00	\$ 115.00	3.6%	\$4.14
Aluminum cans	Cents/lb, sorted, baled and delivered	\$ 74.50	\$1,490.00	0.5%	\$7.45
Plastics #3-7	Commingled (#3-7, cents/lb, baled and picked up)	\$ 1.25	\$ 25.00	2.8%	\$0.70
PET	Cents/lb, baled and picked up	\$ 20.75	\$ 415.00	3.9%	\$16.19
Natural HDPE	Cents/lb, baled and picked up	\$ 42.00	\$ 840.00	2.3%	\$19.32
Colored HDPE	Cents/lb, baled and picked up	\$ 31.50	\$ 630.00	2.3%	\$14.49
Glass (3 Mix)	\$/Ton, delivered	\$ (10.00)	\$ (10.00)	22.6%	(\$2.26)
Polycoated Cartons	None at this time	-	-	0.4%	\$0.00
Contamination	N/A	-	-	30.9%	\$0.00
Total:				100%	\$84.76

Note: The index values for April 2014 are used for estimation purposes only, and are subject to fluctuation as determined by Secondary Fibers and Material Pricing found on RecyclingMarkets.net. Prices to be used are the first published Regional Average prices for the Southeast USA in the month for which payment is being made. No market index currently exists for polycoated cartons in RecyclingMarkets.net; therefore, the value is set at zero (\$0.00). When a market index for polycoated cartons or aseptic containers becomes available on RecyclingMarkets.net, it will be utilized.

EXHIBIT 3

SAMPLE CALCULATIONS OF MONTHLY PAYMENTS TO CITY

When making payments based on the AMV, the Contractor shall calculate the amount of the Contractor's monthly payments to the City by using the following formula:

$$CP = (AMV - SF) \times (RS) \times PM$$

Where:

CP = Contractor's Payment to the City

AMV = Average Market Value, measured in dollars per Ton, for one
Ton of Program Materials

SF = Service Fee

RS = the revenue share for the City, expressed as a percentage

PM = the total amount of Program Materials, measured in Tons,
delivered to the Contractor during the prior month

Example 1

Assume the following hypothetical values:

AMV = \$124.00 per Ton

Service Fee = \$50.00 per Ton

Revenue Share = 45%

PM = 750 Tons

Calculation: $CP = (\$124.00 - \$50.00) \times 45\% \times 750 \text{ Tons}$

$CP = \$74.00 \times 0.45 \times 750 \text{ Tons}$

$CP = \$33.30 \times 750 \text{ Tons}$

$CP = \$24,975.00$

In this hypothetical example, the Contractor's payment to the City shall be \$24,975.

Example 2

Assume the following hypothetical values:

AMV = \$172.00 per Ton

Service Fee = \$50.00 per Ton

Revenue Share = 40%

PM = 750 Tons

Calculation: $CP = (\$172.00 - \$50.00) \times 40\% \times 750 \text{ Tons}$

$CP = \$122.00 \times 0.40 \times 750 \text{ Tons}$

$CP = \$48.80 \times 750 \text{ Tons}$

$CP = \$36,600.00$

In this hypothetical example, the Contractor's payment to the City will be \$36,600.

Example 3

Assume the following hypothetical values:

AMV = \$46.00 per Ton*

Service Fee = \$50.00 per Ton*

Revenue Share = 40%

PM = 750 Tons

*If the AMV is less than the Service Fee, the AMV is assumed to be zero and there is no payment to the City.

Calculation: $CP = (\$46.00 - \$50.00^*) \times 40\% \times 750 \text{ Tons}$

$CP = (\$0.00) \times 0.40 \times 750 \text{ Tons}$

$$CP = \$0.00$$

As shown in this hypothetical calculation, when the Service Fee is greater than the AMV, the Contractor's payment to the City ("CP") is zero (\$0.00), and the Contractor retains all of the revenue derived from the sale of the Program Material.